EXHIBIT B

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the "Agreement") is entered into effectively as of January 22, 2024 (the "Execution Date"), by and among Bracha Cab Corp., Dovber Cab Corp., Tamar Cab Corp., NY Genesis Taxi Corp., Dabri Trans Corp., Merab Cab Corp., Fit Taxi Corp., Somyash Taxi Corp., NY Tint Taxi Corp., NY Stance Taxi Corp., NY Canteen Taxi Corp., NY Energy Taxi Corp., Jackhel Cab Corp., Lechaim Cab Corp., and Jarub Trans. Corp ("Jarub") (collectively, the "Debtor Borrowers"); Merill Transit Inc. ("Merill") and Spindle Cab Corp. ("Spindle" and together with Merill, the "Non-Debtor Borrowers" and, with the Debtor Borrowers, the "Borrowers"); Tamara Pewzner ("Tamara") and Ruben Elberg ("Ruben"), personally and as a beneficiary of the Estate of Jacob Elberg, and Tamara and Ruben in their capacities as Co-Executors of the Estate of Jacob Elberg; Esma Elberg ("Esma"), personally; Sholom (Sam) Elberg ("Sam"), personally and as a beneficiary of the Estate of Jacob Elberg; Michael Elberg ("Michael"), personally and as a beneficiary of the Estate of Jacob Elberg; Faivish Pewzner ("Faivish"), personally and as the spouse of Tamara; JEB Management Corp. ("JEB"); SHEFA Funding LLC ("SHEFA"); and the Estate of Jacob Elberg (collectively with the Borrowers, Tamara, Ruben, Esma, Sam, Michael, Faivish, JEB, and SHEFA, the "Elberg Parties" or "Parties").

RECITALS

WHEREAS, Jacob Elberg ("Jacob") was a resident of Kings County, New York and passed away on December 20, 2013;

WHEREAS, Jacob at the time of his death was married to Esma and they had four children, Ruben, Tamara, Sam, and Michael;

WHEREAS, Ruben and Tamara were the nominated Co-Executors of the Estate of Jacob Elberg and Co-Trustees of a trust u/w/o Jacob Elberg, and received Letters Testamentary and Letters of Trusteeship pursuant to Decree Granting Probate, dated January 16, 2014, which were issued by the Surrogate's Court, Kings County (the "Kings County Surrogate's Court");

WHEREAS, by the decision and order of Justice Andrew Borrok, dated January 20, 2021, it was determined that, at the time of his death, Jacob was the holder of a sixty (60%) percent ownership interest in each of Royal One Real Estate LLC ("RORE"), a New York limited liability company, and Royal Real Estate Management, LLC ("RREM"), a New York limited liability company, and Ruben was the holder of a forty (40%) percent ownership interest in each of RORE and RREM;

WHEREAS, Tamara had disputed the validity of Ruben's forty (40%) percent ownership interest in each of RORE and RREM;

WHEREAS, by this Settlement, it is agreed that Ruben shall receive the property located in the Bronx, New York, Block 3211, Lot 118 (the "Bronx Property");

WHEREAS, Ruben is the titular owner of a land lease for property in Israel located at Block 7188, Lot 32 (old Lot 171), which is located in Kfar Chabad Israel (the "Israel Property") and by this Agreement, Ruben's ownership will no longer be contested;

THE MERGER TRANSACTION:

WHEREAS, Tartains has represented that she did not receive any financial or other benefit, directly or indirectly, including through any family member or other relative, in connection with the merger of Royal CP Hotel Holdings, LP, a New York limited partnership ("Royal HI") with and into an entity affiliated with cortain buyers for total consideration (cash and the assumption of indebtedness) valued at \$15,777.210, which closed on or about August 25, 2016 (the "Merget Transaction"). Set forth on Schedule A hereto and made a part hereof is the Flow of Funds Memorandum reflecting the way in which all consideration of the Merger Transaction was paid or distributed;

WHEREAS, Ruben did not receive any payment or distribution of the proceeds of the Merger Transaction is either his individual especity as a Class D partner of Royal CP and/or Royal HI or as a 40% minority owner of each of RORE and RREM (Class C Partners) even though the Merger Transaction was classified as a Capital livent under both the Limited Partnership Agreement for Royal HI, dated Nevember 30, 2012, and the Limited Partnership Agreement for Royal CP, dated Nevember 30, 2012 (collectively, the "Nevember Limited Partnership Agreement"), although purposes to the decisions arising from the D7 Action (as defined below), Ruben was determined to be estimated to a portion of such proceeds;

WHEREAS, on August 24, 2022, Ruben filed an action against the International Bank of Chicago, Frank Wang, Westlead Bridge LLC d/b/a Westlead Capital Inc., Raymond Ku, New Fund, LLP, NYC Metro Regional New Fund LLP, Law Offices of Joe Zhenghong Zhou and Associates PLLC, and Joe Zhenghong Zhou, as purchasers in the Merger Transaction, in the Supreme Court of the State of New York, County of New York, Israeing index number 653079/2022 (the "Purchasers" Action");

ACTION FOR DECLARATORY JUDGEMENT:

WHEREAS, on June 24, 2016, Ruben commenced a Declaratory Judgment Action in the Supreme Court of the State of New York, New York County, Index No. 653373/2016 (the "Qd Action"), a copy of in attached hereto as Schedule B and incorporated herein by reference as if fully an forth herein, which addressed whether the Limited Partnership Agreements for Royal CP and Royal III, each entered into on August 10, 2012 (collectively, the "August Limited Partnership Agreements"), or the November Limited Partnership Agreements were the governing partnership agreements for Royal CP and Royal HI;

WHEREAS, Rubon and Tamara actively Inigated the DJ Action through discovery and motion practice and altimately filed emse-cootions for summary judgment, which were fully submitted on or about May 18, 2020;

WHEREAS, by Ducision and Order, dated January 20, 2021, Supreme Court Justice Andrew Borrok, denied Termon's section for summary judgment in the DJ Action and granted Buben's motion for summary judgment in the same action:

WHEREAS, Turners appealed the Decinion and Order, dated January 20, 2021, to the Appellate Division, First Department, and on March 3, 2022, the First Department affirmed the Decision and Order, dated January 20, 2021;

WHEREAS, Tamura requested reconsideration and requested leave to appeal the decision of the Appellate Division, First Department to the New York Court of Appeals and the motion was decied and leave to further appeal was not granted;

ACTION FOR MONEY JUDGMENT

WHEREAS, on June 22, 2022, Ruben moved for namonary judgment to lieu of complaint under CPLR 3213 (captioned Ruben Elberg v. Tamara Pewaner, Index No. 657021/2022 (the "3213 Action")):

WHEREAS, Tamura and Sam opposed Ruben's motion for summary Judgment;

WHEREAS, on September 20, 2022, a Decision and Order by Austice Audrew Borrok on this Motion was issued, that granted Ruben's surresury judgment motion (the "September 2022 Suprems Court Order"):

WHEREAS, on October 3, 2022, the New York County Clark emered a money judgment in favor of Ruben and against Tamura, individually, as Co-Executor and Co-Trustee of the Estate of Jacob Elberg and as court-designated manager of each of ROBE, RREM and Royal LIC, in the amount of \$19,969,505.56, with interest thereon at 9% per anexes from the 25th day of August, 2016 totaling \$10,980,492.51, along with section costs of \$45,00, and disbanements as to be taxed by the Clerk of \$237.50, for a total of \$10,950,255,37, and further awarding legal fees in the amount of \$4,208,728.28 with interest thereon at 9% per annum from the 20th day of Jamusey, 2021, totaling \$644,454.31, and disbanements as to be taxed by the Clerk of this Court upon the presentation of the proper papers of \$282.50, for a total of \$4,853,465,69 (the "Ruben Money Judgment"):

WHEREAS, a copy of the Ruben Money Judgment is attached hereto as Schedule C and incorporated benefit by reference as if fully set forth herein;

WHEREAS, Tamara has appealed from all parts of the September 26, 2022 September Court Order and from the Roben Money Judgment, dated October 3, 2022, and these appeals have not yet been perfected to the Appellanc Division, First Department;

NEW YORK CITY MEDALLIONS AND THE TURNOVER PROCEEDING:

WHEREAS, the Burowers collectively own 35 licenses to operate taxicabs within the city of New York (the "Medallices"):

WHEREAS, at the time of his death, Jacob was the sole stockholder of the Borrowers that owned an aggregate of 29 Medallions and Jacob owned fifty (30%) percent of Jarub, which owned 2 Medallions. Rubin contended that he owned and is the current owner of the other fifty (30%) percent ownership interest in Jarub.

WHEREAS, Ruben contended that he was and currently is the sole stockholder of two (2) corporations (the Non-Debtor Berrowers) that own an aggregate of 4 Medallions;

WHEREAS, the equity interests of the Bornovern beneficially owned by Jacob at the time of his death (including 50% of Jacob) were transferred by the Estate of Jacob Elberg to Esma in early 2014;

WHEREAS, Tamura disputed that Rubers owned any of the Borrowers, and also disputed Buben's ownership interests in RORE, RREM, Royal CP and Royal HI, and, in connection therewith, filed a petition in the Kinga County Surrogate's Court (the "Kinga County Tumover Proceeding"):

WHEREAS, Ruben defended against the claims made by Tamurs in the Kings County Turnaver Proceeding, which remains pending;

WHEREAS, by Order to Shaw Cause, dated August 28, 2014, filed in Kings County Surrogate's Court, that Court enjoined Ruben individually, without his an-executory, from transferring and/or conveying any right, title or innerest in RORE, RREM, Merill, Jarub and Spindle and further stoyed, enjoined and restrained Ruben from withdrawing and transferring any mostes from accounts maintained by Merill, Jarub, Spindle, JED and SHEFA;

WHEREAS, by Decision and Order, dated Agril 21, 2015, Ruben's motion to dismiss the Kings County Turnover Proceeding and motion to post an undertaking was denied and the order on the Order to Show Cause, dated August 28, 2015, was modified by the Kings County-Sumgests's Court, esse spoosts, to allow Buben Elberg to gay estate administrative expenses in fulfillment of his duties as Co-Executor of the Entate of Jacob Elberg.

WHEREAS, Ruben appealed the Decision and Order, dated April 21, 2015, and by Decision and Order, dated August 1, 2018, the Appellate Division, Second Department, modified the Order and directed the Kings County Surrogate's Court, to fix an appropriate undertaking pursuant to CPLR 6312;

WHEREAS, on August 27, 2018, Ruben settled a Decree for the fixing of an undertaking in the arrayant of \$25,000,000.00, by the Kines County Surrougts's Count.

WHEREAS, the Kings County Surrogate's Court has taken no action is connection with the adversarid proposed decree;

WHEREAN, the Kings County Turnover Proceeding was transferred to Surrogate's Court, Queens County ("Queens Surrogate's Count") by Administrative Order dated December 3, 2021, where it remains pending:

WHEREAS, by Petition, dated July 27, 2015, Tamura filed a proceeding in the Kings County Surrogene's Court, alleging that Rubers violated the Court's Decision and Order, dated April 21, 2015, and furthermore requested that Ruben's Letters Testamentary and Letters of Trustmeship be revoked;

WHEREAS, Ruben denied the allegations made in the Petition, dated July 27, 2015, and has defended himself in this proceeding:

WHEREAS, the Kings County Sumagate's Court, on July 30, 2015, signed an Order to Show Cause, which, pending adjudication of the proceeding commerced permant to the Politics, dated July 27, 2015, steped, enjoined and restrained Ruben from individually, and without his cosuccutor, withdrawing or transferring any monins, or issuing say checks from the accounts of any entity, partnership or users in which the listate of Jacob Elberg amened an interest in a proceeding before this Court, including but not limited to RORE, RREM, Royal LIC, Royal CP, Royal HI, Merill, Jarob, Spinslle, JES and SHEFA, and further, stayed, enjoined and restrained Roben in any matters whatsoever from individually transferring, selling, conveying or massing any loan, mortgage or other charge of any nature to be placed upon, against or in any masser officing for rule or investment or otherwise affecting the membership interests, stores, assets, or income of the listate of Jacob Elberg, Trust, RORE, RREM, Royal LIC, Royal CP, Royal HI, Merill, Juruh, Spinslle, JEB, and SHEFA;

WHEREAS, on September 1, 2015, Ruben moved to dismiss this Petition seeking his removal as Co-Executor and Co-Trustee of the Estate of Jacob Elberg and that motion was denied by Decision and Order, dated March 28, 2016;

WHEREAS, by Petition dated December 8, 2017, Rubes aroved to suspend and remove Turnara as Co-Executor and Co-Trustee of the Entate of Jacob Elberg, to have the Public Administrator appointed as co-fiduciary and to remove the restrictions placed on Ruben by the Order to Show Cause, dated July 30, 2015 (the "Euspension and Removal Proceeding").

WHEREAS, on December 15, 2017, Kings County Surrogate's Court signed as Order to Show Cause for the relief assight by Ruben in his Petition, dated December 8, 2017;

WHEREAS, the Suspension and Removal Proceeding was transferred to Querns Surrogate's Court by Administrative Order dated December 3, 2021;

WHEREAS, by Petition, dated May 8, 2021, Sum commenced a proceeding in Kings County Surrogate's Court to compel Ruben and Tamans to account for the Estate of Jacob Elberg. One "Accounting Proceeding":

WHEREAS, the Accounting Proceeding was transferred to Queens Surrogen's Court by Administrative Order dated December 3, 2021;

WHEREAS, as part of the Settlement, the Eiberg Parties agree that the Borrowers (not owned by Rubeo) or the Medallicos are being transferred to Ruben in consideration of his claim to a contingent interest in the Estate of Jacob Elberg in the event the Chapter 11 Plan is confirmed;

CAPITAL ONE:

WHEREAS, on or about August 1, 2012, Capital One made a loan to each of the Burrowers in the principal amounts set forth on <u>Schedule D</u> hereto and thereafter made certain additional loans to certain Borrowers as more fully identified on <u>Schedule D</u> (each a "<u>Loan</u>", collectively, the "<u>Loan</u>":

WIREREAS, each of the Borrowers granted to Capital One security interests in the Medallises, all proceeds thereof, and other personal property owned by such Borrower (collectively, the "Capital One Lieng") as assurity for the Loan(s) to it. WHEREAS, Jacob and JEB guaranteed all Louns, and Raben personally guaranteed the Louns to Jurub (owned 50% by Ruben) and the Non-Debtor Borrowers (the "<u>Ruben Elberg</u> Personal Quarante"):

WHEREAS, the Loans matured on January 1, 2015, upon which all amounts due under the terms of much Loan (and the obligations due and owing under Loans, collectively, the "Loan Obligations") become immediately due and payable;

WHEREAS, each of the Borrowers has failed to fully supay the Loan or Loans made to it;

WHEREAS, on or about June 9, 2015, Capital One presented a claim against the Estate of Jacob Elberg to the Co-Executors in respect of Jacob's liability as a personal guaranter of the Loans in the amount of \$23,140,074.86 (the "Estate Claim"):

WHEREAS, on July 27, 2015, Capital One commenced an action against JEB and Ruben in the Seprence Court of New York, Sufficik County, bearing index number 608014/2015 (the "JEB Action"):

WHEREAS, on November 4, 2015, Capital One commenced an action against the Estate of Jacob Eiberg, Ruben, and JEB in the Supreme Court of New York, Suffolk County, bearing index number 611751/2015 (the "Executor Action"):

WHEREAS, on February 1, 2016, Capital One entered into a forbearance agreement with Debtor Borrowers, the Estate of Jacob Elberg, and JEB, which was later amended:

WHEREAN, on April 27, 2016, Capital One voluntarily discontinued the Executor Action in its entirety without prejudice:

WHEREAS, an April 27, 2016; Capital One voluntarily discontinued the JEB Action solely against JEB without projudice;

WHEREAS, on November 22, 2016, a judgment was entered against Ruben, individually, in the JEB Action in favor of Capital One in the amount of \$4,399,541.72 (the "<u>Buben Ethera</u> balanest"):

WHEREAS, since the Ruben Elberg Judgment was entered, post-judgment interest has been scurning at the stanutury rate of 9% per annum;

WHEREAS, Ruben took an append of the judgment entered against him in the JES Action to the Appellum Division, Second Department, which appeal was denied by order entered on March 31, 2021;

WHEREAS, on or about February 6, 2017, to enforce the Ruben Elberg Judgment, Capital.

One served a restraining notice on the Estate of Jacob Elberg;

WHEREAN, on or about May 9, 2017, to enforce the Roben Elberg Judgment, Capital.

One issued an execution against property with notice to gamishee (the "Execution"), and the Sheriff of Nassau County "levied on" the Execution (the "Lagge") by serving the Execution on

Taxara, in her capacity as a co-executor of the listate of Iscob Elberg and fiduciary for certain entities related to the listate of Iscob Elberg;

WHEREAS, the Levy was extended by a court order dated July 21, 2017 and entered in the JEB Action:

WHEREAS, on December 8, 2017 (the "<u>Petition Date</u>"), the Defoor Bossowers such commenced a case under title 11 of chapter 11 of the United States Code (as amended, the "<u>Bankruptcy Code</u>") before the United States Bankruptcy Court, Eastern District of New York (the "<u>Bankruptcy Court</u>"), which cases are jointly administered under Case No. 17-46fil3-nhl (the "Chapter 11 Cases");

WHEREAS, on or about May 3, 2018, Capital One filed a proof of claim in each of Debtor Borrower's Chapter 11 Cases for the amounts due and owing under the Loans to the Debtor Borrowers as of the Petition Date (collectively, the "Bankruptcy Claims"), which Bankruptcy Claims aggregated \$23,099,309.51 as of the Petition Date;

WHEREAS, since the Petition Date, default rate interest and other amounts have been accruing with respect to the Bankruptcy Claims and continue to accrue;

WHEREAS, on or about May 4, 2018, Ruben filed a proof of claim in the Chapter 11 Cases for the amounts that and owing him as of the Petition Date, which totaled \$4,967,313.35 as of the Petition Date;

WHEREAS, by under dated June 30, 2019, the Bankruptcy Court approved and authorized the Delntor Benrowers to enter into and consummate a global settlement agreement among cortain of the Parties heroto and others; excluding, however, the Non-Delnter Borrowers, Jarub Trans. Corp, and Rubes (the "Prior Settlement"):

WHEREAS, on July 17, 2019, Tamara filed a petition with the Kings County Surrogate's Court pursuant to New York Surrogate Court Procedure Act ("SCPA") § 2102(6) for approval of the Prior Settlement, which was transferred to Queens Surrogate's Court on December 3, 2021 by Admircutrative Order, where it remains pending;

WHEREAS, on August 24, 2022, Ruben Elberg filed an action against Capital One and others in the Supreme Court of New York, New York County, bearing index number 653076/2022 (the "Fraud Action").

WHEREAS, on October 1, 2022, Capital One commenced a special proceeding pursuent to CPLR § 5227 against Tamaco, in her personal and representative capacities, and Rubers, solely in his representative capacities, in the Supreme Court of New York, Nassau County, bearing index rounder 613186/2022 (the "Nassau County Turnerest Proceeding") to prevent the release of funds held by the Estate of Jacob filberg;

OUTENS SURROGATE'S COURT

WHEREAS, Sam filed the Accounting Proceeding and the Queens Surragate's Court ordered Tursura and Buben to file their accountings as Co-Executors;

WHEREAS, Tamara and Ruben filed accoomings with the Queens Surrogate's Court, which accountings are pending;

WHEREAS, the Queens Surrogate's Court on or about October 25, 2022 stayed the parties from continuing any flether litigation in any court, which included staying Ruben from enforcing the Ruben Money Judgment;

WHEREAS, on October 26, 2022, the Queens Surrogate's Court denied, without projudice, the petitions of Ruben sneking the removal of Tamara as co-Executor of the Estate of Jacob Eiberg and the appointment of the Public Administrator as administrator e.t.a.;

WHEREAS, on October 26, 2022, the Queens Sumgate's Court decied, without projudice, the peritions of Tamara seeking the removal of Ruben as co-Executor and co-Trustee of the Estate of Jacob Elberg and the appointment of Tamara as note executor and trustee;

WHEREAS, on October 26, 2022, the Queens Surrogate's Court decied the petition by Tamara seeking the written consent of Ruben to release the uses of \$50,000 from the Estate of Jacob Elberg in order to engage accessments and attorneys;

WHEREAS, on October 26, 2022, the Quoens Surrogate's Court denied, without projudice, the petitions of Sam seeking the removal of Roben and Tansen as co-Executors and co-Trustees of the listate of Jacob Elberg and the appointment of San as administrator c.t.s.;

WHEREAS, the only proceedings that are still active in the Queens Surrogate's Court me: Petition to Settle Dispute with Secured Creditor (File 2022-211/H); Petition to Compet an Accounting (File 2022/I); Petition filed by Sun to remove Tamors and Ruben in Co-Executions and Co-Trustee and appoint the Public Administrator (File 2022-211/M); Petition for Judicial Settlement of Account of Ruben (File 2022-211/N); Petition for Judicial Settlement of Account of Tamora (File 2011/O); and Petition for Turnover of Entate Property (File 2022-211/C) (collectively, the "Active Outputs Surrogate's Court Actions");

WHEREAS, the Queens Surrogate's Court is authorized pursuant to SCPA 2110 to fix and determine the compensation of an attorney for services rendered to a fiduciary or to a devises, legates, distribute, or any person interested or of an attorney who has rendered legal services in connection with the performance of his duties as a fiduciary or in proceedings to compel the delivery of papers or funds in the hands of an attorney;

WHEREAS, SCPA 1811 authorizes the payments of debts and funeral expenses by the fiduciary of an Estate and preference for payments of debts and claims;

RECENT ACTIONS BY THE PARTIES:

WHEREAS, prior to the date of this Agreement, pursuant to a certain Agreement for Advance of \$1,550,000 from the Estate of Jacob Elberg Bank Account Ending x3570, by and between Tumura and Ruben, personally and in their capacities as so-Essecutors of the Estate of Jacob Elberg (the "Advancement of \$1,550,000 Agreement"), Tamura and Ruben caused the Estate of Jacob Elberg to deposit into encrew with Abrama Fernterman, LLP ("Abrama

Finisterman"), as encrow agent, a total of \$1,550,000 from the funds held in the bank account of the Estate of Jacob Elberg (JP Morgan Chase Bunk, N.A. Account ending x3570) (the "Estate Bask Account"). The Advancement of \$1,550,000 Agreement expressly authorized Abrams Penaterman to make the following payments from encrow for and on behalf of the Estate of Jacob-Elberg (the "Prior Settlement Payments"): (i) an aggregate of \$50,000 towards the payment of fees required to be made to certain professionals retained by Ruben to assist in finalizing the Settlement, including Roben's accountant, bankruptcy attorney, corporate tax attorney, and a broker registered with the New York City Taxi and Litmousine Commission, which expenses are viewed as expenses of the Estate of Jacob Elberg under SCPA 1811 and 2110; (ii) an aggregate of approximately \$1,000,000 to the law firms and lawyers in partial payment of attorneys' fires for legal services rendered that benefited the Estate of Jacob Elbers and the fiduciaries, beneficiaries, and other interested persons, as contemplated by SCPA 2110; and (iii) up to \$500,000 to the Estate of Alfred E. Locuscio, a Marshal for the City of New York, in payment of all applicable poundage free incurred on behalf of Ruben in his attempt to execute a money judgment issued by the County Clerk, New York County, dated October 3, 2022, in an action captioned Rubon Eiberg v. Tamara Pewaner, New York County Index No. 657021/2022, as further reflected in a separate agreement between Ruben and the New York City Marshal and others;

WHEREAS, partiases to the Advancement of \$1,550,000 Agreement, any balance of such funds remaining in excurs with Abrams Financeman following payment in full of the Prior Settlement Payments shall be paid as directed by Ruben, pursuant to and consistent with the Queeus Surrogate's Court's determination, on or after the Settlement Effective Date pursuant to the terms of this Agreement (and for clarity such remaining funds shall be deamed to be part of the Remaining Estate Funds (as defined in Section 2(d) below));

WHEREAS, the Elberg Parties acknowledge and agree that the stations set forth berein are unusual and complex in that they involve multiple parties and actions before by multiple courts, including the state. Sederal, trial, appellate and busin upterly courts, and that to avoid any further expenditure of time, effort and movery and the uncertainty attendant to litigation, the Elberg Parties desire to aetile and fully resolve, with prejudice, the Estate Claim, the Bankruptcy Claims, the Loan Obligations, JEB Action, the Active Queens Surrogate's Court Actions, the Executor Action, the Nassau County Tumover Proceeding, the Kings County Tumover Proceeding, the Final Action, the Roben Elberg Judgment, the Ruben Money Judgment, and all other claims, liabilities, and counts of action among the Elberg Parties or as otherwise set forth hereis, subject to the terms and conditions of this Agreement (the "Settlement");

WHEREAS, contemporareously with the execution and delivery of this Agreement, certain of the Elberg Parties are entering into a Settlement Agreement with Capital One, dated as of the Elsecation Date (the "Capital One Settlement Agreement"), a copy of which is attached hereto as Schedule E, to fully and finally settle and resolve certain claims, liabilities, causes of action, and other matters with Capital One which are contingent, in part, upon consummation of this Settlement among the Elberg Parties as contemplated by this Agreement; and

WHEREAS, in view of the fonegoing, the Elberg Parties desire to enter into this Agreement.

NOW THEREFORE, in consideration of the mutual promises and coverages contained berein and file other good and valuable consideration, the monipt and sufficiency of which are benefity acknowledged, the Parties, intending to be legally fround, hereby agree as follows:

Escriw Transfer Date; Settlement Effective Date; Chapter 11 Plan.

- "Excrow Deposit Date" mesons the cortiest date open which all of the 400 following have occurred: (i) this Agreement is fully executed by all Parties; (ii) the Capital One. Settlement Agreement is executed by all parties thereis; (iii) the Quoens Surrogate's Court has entered an order approving the terms of this Agreement and the Capital One Settlement Agreement, authorizing Lort Sullivan, as Guardian ad Lines for Eura, to execute each such agreement on Exma's behalf, and lifting any stays previously put in place by the Outens Surrogate's Court, other than the stay of litigation entered by Queens Surrogate's Court in October 2022 Othe "Stay Order"), provided Asserver, that notwithstanding the foregoing, all proceedings in Bankruptey Court and/or any other cases or proceedings beyond the acope of the Stay Order may proceed and shall not be effected or entricted by this provision; and (iv) restrictions placed on the funds held in accounts of SHEFA (IP Morgan Chase Bank, N.A. account ending x2760), Old Republic National Title Insurance Company (JP Morgan Chase Bank, N.A. accounts ending x4707, x4723, x4774, X4731), Royal One Real Estate LLC (Capital One, N.A. account ending n6305), Royal Real Estate Management, LLC (Capital One, N.A. occurant ending x5314), escrow by Old Republic National Title Insurance Company (IP Morgan Chane Bank, N.A. accounts ending x4707, x4723, x4774, X4731) (collectively, the "Hastricted Accounts") are removed und. subject to the terms of this Agreement, the Capital One Settlement Agreement, and the still extent Capital One Liens, the Estate of Jacob Elberg shall have access to all funds in the Restricted Accounts (once the restrictions are removed, the monies held in such accounts shall be referred to herein as the "Unesstricted Estate Funds").
- "Settlement Effective Date" means the earliest data upon which all of the following have occurred: (i) the Escrow Deposit Date and all actions and obligations of the Elberg Parties under Section 2 of this Agreement which must be completed within five (5) business days following the Escrow Deposit Date are folfilled; (ii) the date on which all Capital One-Requirements (as defined in the Capital One Settlement Agreement) are fulfilled or completed: (iii) entry of an order by the Bankruptcy Court approving this Agreement (the "Bankruptcy Approval Order"s (iv) the earlier of (A) one hundred and eighty (180) days from expry of the Bankruptcy Approval Order, and (B) entry of any order by the Bankruptcy Court & the Claimer 11 Plan (as defined below), which, among other things, shall incorporate the terms of this Agreement, discharge the debts of Dubtor Borrowers (including the Loans and Loan Obligations), refease and terminate the Capital One Liess, and, in either case, he followed immediately by (v) (A) delivery by Lori Sollivan, as Guardian ad Litem for Eams, of Bonowers to Roben in consideration of his claim to a contingent interest in the Estate of Jacob Elberg or (II) in the event the Chapter 11 Plan is not confirmed, the transaction contemplated by Section 4(b), in each case free and close of all liens, charges, claims, tuons, free and penalties (including those incurred by or on behalf of the Debtor Borrowers' respective management companies or their respective employees, contractors, or agents and any tax liability for debt forgiveness for the Debtor Somowers), restrictions, security internsts, rights of first refusal, mortgages, deeds of trust, pledges, and all other encembrances (collectively, "Ligns"), including without limitation Capital One Liens.

- Debtor Borrowers shall, and Earna and Turnara shall cause the Debtor. Borrowers to, obtain approval of this Agreement and the Capital One Settlement Agreement by the Backruptcy Court and confirmation by the Bankruptcy Court of a Chapter 11 Plan which in consistent with the ierms of this Agreement and the Capital One Settlement Agreement (the "Chapter 11 Plan"). The Elberg Parties agree to use their best efforts and act in good faith to obtain. confirmation of the Chapter 11 Plan as promptly as possible. The Elberg Parties further agree and shall allow any non-material changes to this Settlement to facilitate the confirmation of the Chapter 11 Plan. The Chapter 11 Plan will account for satisfaction of allowable Outstanding Debtor Borrower Liabilities (as defined below) and to the extent Outstanding Debtor Borrower Liabilities. are required to be paid, they shall be gold by in accordance with terms of this Agreement. The Chapter 11 Plan shall not provide for the liquidation of all or substantially all of the property of the hankruptcy estate of the Debtor Borrowers, and the Debtor Borrowers shall engage in business after consummation of the Chapter 11 Plan. The Chapter 11 Plan shall qualify for discharge pursuant to Section 1141 of the Bankruptcy Code and will not be subject to the exceptions to discharge in that Section (specifically Section 1141(d)(3) of the Bankruptcy Code) and the Fiberg Parties agree that the Loans, Loan Obligations and any other claims against the Debur Borrowers will be discharged pursuant to a gian under title 11 of the Bankpuptcy Code within the meaning of Sections 108(s)(1)(A) and (d)(2) of the internal Revenue Code of 1986, as amounted. The Chapter 11 Flan shall also provide that the extate of the Debtor Borrowers shall be fully administered upon payment of the Loans and any other Loan Obligations to Capital One as contemplated by the Capital One Settlement Agreement and that a motion for a final decree closing the Chapter 11 Cases shall be brought by the Debtur Borowers pursuant to the Federal Rules of Buskruptcy Procedure, Raie 3022. The Elberg Parties agree to take all actions necessary and execute and deliver all documents, instruments and agreements seeded, to obtain entry of the final decree of the Bankrigstoy Court to close the Chapter 11 Cases. Tamain and Faivish agree to pay all legal fees. and court expenses, including but not limited to fees ordered to be paid to the US Trustue, attociated with the implementation of the foregoing. The Elberg Parties agree time is of the ensence in the performance of this provision.
- (d) Ruben (and Capital One parasant to the Capital One Settlement Agreement) will consent to end not object to the Chapter 11 Plan consistent with the terms of this Agreement and will not object to the discharge of all debt of (or claims against) the Debter Buenowers parasant to the Chapter 11 Plan and will cast a ballot in favor of the Chapter 13 Plan, assuming it comports with the terms of this Agreement and the Capital One Settlement Agreement. Ruben will also consent to and not object to any other Bankruptcy Court proceedings, including but not limited to a 9019 motion in furtherance of confernation of the Chapter 11 Plan. Upon confernation of the Chapter 11 Plan, Ruben agrees that his claim will be withdrawn and expanged with prejudice.
- (c) In addition, the Elberg Parties agree to sign all documents and authorize the Co-Executors to take all actions to gain access to all available funds being held in the Restricted Accesses, and to discontinue the action captioned Old Republic National Title Insurance Company v. Ruben Elberg et al, New York County Supreme Court Index No. 159450/2022, promptly after the fluids in the Restricted Accesses are released of restriction. The Elberg Parties who have apparent in the Bankruptcy Court proceedings may use the funds currently in the Debtor Borrowers' bank accesses (the "Debtor Borrowers' hank accesses (the "Debtor Borrowers' Accesses, to empenate it so more than a total of approximately \$69,000 in the Debtor Borrowers' Accounts, to empenate Brenda Whitson, make required quarterly payments to the U.S. Bankruptcy Trustee,

and to pay the fees of, and distransments incurred by professionals hired previously to represent and perform services for the Debter Borrowers (atterneys and accountants) (to the extent there are sufficient funds in the Debter Borrowers' Accounts to do so), provided that appropriate documentation of such compensation and/or expenses is presented to Ruber. Subject to receipt of such documentation, Ruben agrees not to content using the Debter Borrowers' Accounts for said expenditures or any applications for and payments of fee awards, or any future applications for fine and disbursements incurred or awards of fines or disbursements, whether addressed in the Chapter 11 Plan or otherwise.

(f) For purposes of this Agreement, (i) the Unrestricted Estate Pands, plur (ii) the funds (if any) remaining in the Estate Bank Account, plus (iii) the funds (if any) remaining in the Debtor Borrowers' Accounts, plus (iv) any funds held in encrow by Abrama Frenterman as contemplated by this Agreement following payment in full of the Prior Settlement Paymenta, shall be referred to herein as the "Remaining Estate Funds". The Parties acknowledge and agree that the Remaining Heurie Funds are for the herefit of Ruben and will be distributed in accordance with the terms of this Agreement and the Capital One Settlement Agreement to consummate the Settlement among the Parties following the Settlement Effective Date:

Europe

- (a) Pursuant to the Capital One Settlement Agreement, no later thus flive (3) business days following the Escrow Deposit Dute, the Estate of Jacob Elberg will deposit (i) a total of \$8,450,000 (the "Capital One Escrow Amount"), for the benefit of Capital One, in escrow to be beid by the attorneys for Capital One, an escrow agent ("CO Escrow Agent"), in accordance with an escrow agreement to be entered into by Capital One, the Estate of Jacob Elberg, Roben, and the CO Escrow Agent using the Benanining Estate Funds. The balance of the Remaining Estate Funds (collectively, the "Buben, Elberg Remainder Amount") is for the benefit of Roben Elberg and will held in encrow by Abrams Fenattermen, as escrow agent, in accordance with an encrow agreement to be entered into by Ruben and Abrams Fenatterman, as escrow agent, and in compliance with Section 4 hereof.
- (b) No later than five (5) business days following the Escrow Deposit Date, Faivish will deposit a total of \$1,490,000 in escrow to be held by Greenfield Stein & Senior, as escrow agent ("GSS"), in accordance with an escrow agreement to be entered into by the Faivish, Ruben, and GSS, as escrow agent. The escrowed funds shall be used as follows: (i) to cover the payment of all fees, costs, and expenses for transfers and rengistration of the Medallions to Rubes up to a maximum of \$50,000; GSS will be required to pay all such fines, costs, and expenses for the transfer of the Borrowers to Rubes in accordance with the written instructions provided by Rubes up to \$50,000; (ii) \$710,000 shall be paid to Sam in accordance with Segjon 4(a) hereof, and (iv) \$320,000 shall be used towards Faivish's responsibility to make payment of the Outstanding Debtor Bronower Liabilities as defined in and contemplated by Segjon 5(c) hereof.
- (c) No later than five (5) business skey following the Escrow Deposit Date, counsel for plaintiffs in each of the pending matters set forth on <u>Schedule F</u> attached heroto (other than the Fraud Action, which is addressed below), shall deliver to each of the attorneys representing a defondant in each such action a stipulation of discontinuance or voluntary dismissal, with penjudion, to be held in escrow, for each of the pending matters set forth on <u>Schedule F</u>. No

enrier than two (2) business days following the Settlement Effective Date, each such migralative of discontinuance or of voluntary dismissal shall be released from essrow and filed with the appropriate court. In addition, the Elberg Parties agree that no earlier than two (2) business days following the Settlement Effective Date, the decisions of the Quarte Surrogate's Court on October 26, 2022, relating to (i) the petitions of Ruben seeking the removal of Tamara as Co-Executor of the Estate of Jacob Elberg and the appointment of the Public Administrator as administrator c.t.a. and (ii) the petitions of Tamara nesking the removal of Ruben as Co-Executor and Co-Trustee of the Estate of Jacob Elberg and the appointment of Tamara as sole Executor and Trustee, each of which were desied by the Queens Surrogate's Court without prejudice, shall each be converted to discontinuances with prejudice.

- (d) No later than five (5) business days following the Escrew Deposit Date. Ruben shall deliver to GSS a stipulation discontinuing the Fraud Action with prejudice, which shall be held in escrew by GSS pursuant to an escrew agreement pending the Settlement Effective Date. No earlier than two (2) business days following the Settlement Effective Date, the stipulation discontinuing the Fraud Action with prejudice may be filled with the Court.
- No later than five (5) butiness days following the Settlement Effective Date, Ruben shall deposit with GSS, \$108,000 to be beid in escriw, which funds may be used solely to reimburse Tamars for documented, reasonable attorneys' foes incurred by Tamars in the event there is an action by the current identified defendants in the Purchasers' Action against Tamars for indemnification or contribution, or other claim against Tamara by any of the current identified defendants in the Purchauers' Action, which action or claim in brought by such defendants askely as a consequence of claims asserted by Roben against the identified defendants in the Purchasers' Action (a "Resultant Claim Against Temana"). GSS may pay its own hills (if it is representing Turners in the defense of a Resultant Claim Against Turners) or mimburse Turners for few she has paid to other coursel who may be representing her in said claim upon presentation of documentation that she has paid such bills of other coursed. At the conclusion of Ruben's action against the identified defendants in the Purchaser's Action, if such action settles or concludes without a judgment against the identified defendants in that action, then any remaining funds being held in escrow for legal fees in the defense of Tantara pursuant to this Section shall be returned to Ruben upon such settlement or conclusion. If there is a money judgment or mensy verdict in favor of Rubes and against one or more defendants in the Purchasers' Action, the funds in encrow will remain in earnyw for a period of the earlier of (i) six (6) sears from the date of the money independ or money verified in favor of Ruben, or (ii) until the statute of liminations on a Renditust Claim. Against Tamara expires, at which time the remaining funds held in excrow shall be released to Ruben. In the event of a money judgment against or monetary settlement by one or more defendants in the Purchasers' Action in favor of Ruben, Ruben agrees to pay up to an additional 10% of the cash portion of Ruben's judgment or senteness actually received by Ruben net of Ruben's lead fees, costs, and expenses, up to a maximum of an additional \$142,000 ("Additional Consideration"), to Turney so reimbursement for her documented, seasonable attorneys' Sees incurred in connection with a Residuest Claim Against Turnara by the identified defendants in the Purchasers' Action. Notwithstanding snything herein to the contrary, in no event shall Ruben be required to relieburse Tamara more than an aggregate of \$250,000 (inclusive of the \$158,000 being beld in escrow and the Additional Consideration) for documented, reasonable attorneys' fore actually incurred by Tarraes in defending against a flumitant Claim Against Tarraes to

contemplated by this provision. Ruben shall pay the Additional Contribution to Tuttara no later than three (3) days following his receipt of any manney judgment or actionment.

- (f) No later than five (5) Inniness days following the Escrow Deposit Data, Ruben (and his course), with respect to any judgment for legal files) shall deposit in escrow with the respective attorneys for each of the judgment debtoes against where Ruben has a judgment, a satisfaction of judgment required to satisfy my such judgments set forth on Schedule F attached hereto and documents releasing, withdrawing and vacating any and all judgment inforcement devices, including but not limited to restraining notices, executions and levies (the "Enforcement Decements"). No earlier than two (2) business days following the Settlement Effective Date, the satisfactions of judgment and Enforcement Decements may be released from excrow and filed with each applicable County Clerk or other appropriate officer or entity in order to expurge each such judgment and ensure the withdrawal of each such judgment enforcement device. Schulule F lists each judgment enforcement device that Ruben has served or enaued to be served, and which shall be vacated, removed, and released as a result breast.
- (g) No later than five (5) business days following the Escrow Deposit Date, (i) Buben shall deliver to GSS, to be held in encrow, a general release in favor of the legal coussel named as defendants in the Fraud Action, namely, Charles Liubman, Johnson Liebman, LLP, Howard Garfinkel, Laurerbach, Garfinkel, Damast, Hollander, LLP, Skadden Arps, Slate, Mengher & Flore, LLP, Troutman Pepper, and Fox Rothschild LLP, and Brett Berman (the "<u>Released Legal Counsel</u>"); and, as a condition to obtaining such general release, (ii) each of the Released Legal Counsel shall deliver to Abrama Fenaturman, to be beld in encrow, a general release given by each of them and their respective law firms in favor of Robes, the Borrowers, and Rober's legal counsel, including Abrama Fenaturman. On the Settlement Effective Date, the general releases shall be released from encrow and deemed automatically effective.

Other Actions of the Effert Parties.

The Elberg Parties desire to ensure that Earna is well taken care of and will no longer be hardened by the litigation between and among herself, her children and the Estate of Jacob Elberg. In furtherance of the foregoing, no later than five (5) business days following the Settlement Effective Date, Faivish will, in partial consideration of Ruben agreeing to effectuate the Settlement, establish a supplemental needs trust (the "SNT") and fund the SNT in the amount of \$1,000,000 for the benefit of fisms. Falvish and Tarsara agree that, in consideration of the Settlement, should the family in the SNT be depleted, they shall continue to care for Earna in the same manner, flw the remainder of Esma's life, comparable to the way she had been taken care of by the Trustee of the SNT. In accordance with the terms of the SNT, the Elberg Parties agree that Peter D.C. Mazon shall be appointed as an independent trustee of the SNT and Tamara shall be appointed as the "Special Trustee" to serve as the Ilahou between Essus and the independent trustee. The independent trustee shall have the sole authority to make all docisions as to discretionary distributions out of the treat for Esma or on her behalf. Any assets remaining in the SNT at Exms's death shall be distributed to Tamura. Notwithmending anything to the contrary havein, it is the intent of the Ethery Parties that the SNT be established and administered in strict adherence to the federal and state guidelines and no person shall take any action in respect thereof which could reasonably be espected to justified fisma's eligibility for Medicaid, which she is receiving as of the Execution Date.

(b) Effective no later than ten (10) hasiness days following the Settlement Effective Date, the Esma Elberg Irrevocable Trust (the "Irrevocable Trust") shall be amended by Esma with the consent of all of the beneficiaries as herein provided in accordance with Section 7-1.9 of the Estaten, Powers and Trusts Law ("EPTL") by deleting Article IV of the Introcable Trust in its entirety and substituting in its place a new Article IV to be and read as follows:

"ARTICLE IV

Upon the death of the Grantor, the Trust shall terminate and the Trust principal and any undistributed income (less amounts to be paid to the Grantor's estate, executor, duly appointed fiduciaries or the tax authorities on account of any estates taxes attributable to the Trust Corpus) shall be distributed to the Grantor's son-in-law, Faivish Pewgner."

In connection with the amendment of the irrevocable Trust, Tamara, as Trustee of the irrevocable Trust, will take reasonable steps to obtain the consent to the amendment of the charitable entity correctly designated to receive a portion of the menaleder of the trust, said charity identified by Tamara pursuant to the provisions of Article IV(A)(1) of the trust agreement of Irrevocable Trust prior to amendment.

- (c) Sum and Michael, as broofficiaries of the Irravocable Trust, shall execute the commute stracked hereto as <u>Exhibit 1</u>, on the Escrow Deposit Date, and such conserts shall be held in excrew by GSS satil on or before tex (10) business days following the Settlement Effective Date. To the extent that the current beneficiaries of the brevocable Trust are called upon to execute say further documents to effectuate the enemdrant, such huneficiaries shall do so within three (3) business days of the written request.
- (d) Ifflective as of the Settlement liffscrive Date, Tamara shall, to the extent that she has not previously resigned therefrom, automatically be deemed to have resigned as manager and/or from any other position held by Tamara, as applicable, of all Borrowers, JEB, SHEFA, RORE, Royal LIC, RREM, Royal CP, Royal HI, and any other corporate estition related to the Estate of Jacob Elberg, and all of such resignations will be reflected in writing delivered by Tamara (copies of which will be provided to Ruben's legal counsel).
- (v) No later than fifteen (15) days after the Settlement Effective Date, Tamera shall deliver (or cause to be delivered) all corporate books and moords for all Borrower multies that are within Euras's or any other Eiberg Purty's possession, controly, or control to Ruben at the address provided below for him as to notices to be received by him. Tamera and Euras shall request that Brends Whitsers, the brokkeeper for the Estate of Jacob Eiberg, cooperant with all resumble requests for books, records, and information made by Rubes. Tamera shall be responsible for all fires, casts and expenses associated therewith up to the date of delivery of all such books, records, and information to Rubes, including without limitation related to the payment of salary, borns and other compensation or benefits of Breeda Whitsers.
- (f) Effective no later than five (5) business days following the Eucrow Deposit Date, Ruben shall provide Tamaca with a dood for the transfer of the Bronx Property to Ruben which Tamaca shall cause to be executed and delivered to Abrama Fensterman to hold in escrowuntil the Settlement Effective Date. On the Settlement Effective Date, Abrama Fensterman may release the deed from encrew and arrange for its recording. As mated in Section 5(b) of this

Agreement, Faivish is responsible for 60% of the property takes, fees, sed penalties due in sensors on the Bronx Property and 100% of all transfer taxes, fees, costs, and expenses associated with the transfer of the Bronx Property to Ruben.

- (g) The Elberg Parties shall, and shall cause their respective legal counsel to, take any additional steps to ensure that all actions and proceedings contemplated by this Section.) are dismissed, withdrawn, and/or discontinued with prejudice, and all judgments satisfied. All court costs related to each such dismissal, withdrawal, end/or discontinuance shall be beene by the plaintiff in the applicable action. Other than as expressly set forth in this Agreement, no action shall be taken by Tamata in respect of the Estate of Jacob Elberg without the prior written consent or approval of Rubon.
- Settlement Payments: Promptly following the Settlement Effective Date; the Parties hereby expressly authorize the following payments without the consent of any other person or entity being required (collectively, the "Settlement Payments"):
- (a) Altrans Fersterman shall release from the Robert Elberg Remainder Amount being held in encrow, a total of \$1,600,000 to Ruben or those persons specified in writing by Ruben in payment of the cours and expanses incurred in connection with activities performed on behalf of the listate of Jacob Elberg. The payments contrapplated hereby shall be made by wire transfer of inconditionly available funds pursuant to written wiring instructions or in payoff letters provided by any such person.
- Parsuant to Section 4 of the Capital One Sattlement Agreement, CO Escrew Agent will release \$8,450,000 to Capital One. The Elberg Parties acknowledge and agent that the payment of \$8,450,000 to Capital One is being applied first, to the unpoid principal halance of the Loan Obligations owed to Capital One by Non-Debtor Borrowers, account to the unpaid principal balance of the Loan Obligations owed to Capital One by Jarub, and shird, to the unpaid principal balance of the Loan Obligations owed to Capital One by the Debtor Borrowers (other than Jarish). Such amount as are applied pursuant to the foregoing sentence in clauses first and second shall be. treated by the Elberg Parties as paid by the Estate of Jacob Elberg to Ruben and paid to Capital One on behalf of the Non-Debter Borrowers and Jarub as set forth therein. The Ethera Parties further serve that the payments and other concessions made oursuant to the Capital One Settlement. Agreement satisfied the Ruben Etherg Judgment because all Loan Obligations and any other amounts due from the Borrowers on the underlying debt evidenced by the Louis are resolved by the Capital One Settlement Agreement. Notwithstanding the foregoing, in the event that Roben purchases the Loan Ofrigations of the Debtor Borrowers and associated Capital One Liens as contemplated by Section 4(b) of the Capital One Settlement Agreement, Ruben, Tamara, and the Quardian ad Litem, on behalf of Eurna, shall take all actions necessary, within 10 business days of Ruben notifying them of such purchase and sale, to effectuate the intents and purposes of Section. 6(b) of the Capital One Settlement Agreement, including the execution of Strict Forerlosure Agreements for all Debtor Borowers.
- (4) Abrama Fernsterman shall release from the Ruben Elberg Remainder Assurest being hold in excess an assount required for payment of legal services rendered by Abrama Fernsterman and other counsel that benefited the Emite of Jacob Elberg and the fiduciaries, beneficiaries, and other interested persons, as contemplated by SCPA 2110.

- (ii) Abrains Fenaterman is expressly authorized to release \$6,400,000 to Ruben in consideration of proceeds of the Merger Transaction to which Robes (as a Class C Partner of RORE and RREM) was entitled. The payments contemplated hereby shall be made by electronic wire transfer of immediately available funds pursuant to wiring instructions provided by Ruben.
- (e) Sum will receive the sum of \$850,000 which Sum becelly accepts as full and complete satisfaction of his contingent instruct in the finate of Jacob Elberg and his interest in the Irrevocable Trust. The payment to Sum will be made as follows: \$710,000 by Fairtish from the funds being held by GSS in escrow and \$140,000 by the Entite of Jacob Elberg from the Ruben Elberg Remainder Amount being held by Abrama Fensterous in encrow. No later than ten (10) business days following the Settlement Effective Date, such payments shall be made out of escrow by the escrow agents by electronic wire transfer of immediately available funds pursuant to wiring instructions provided by Sum. Simultaneously with and contingent upon payment being made, Sum authorizes the release from escrow of the consent (Exhibit I), given in accordance with Section 7-1.9 of the Estates, Powers and Trusts Law ("EPIL"), to the amendment of the Irrevocable Trust as described hereinshove and thereby relinquishing his interest as a remainder beneficiary of the Irrevocable Trust.
- (f) Michael will receive the sum of \$500,000 which Michael hereby accepts as full and complete payment of his contingent interest in the Estate of Jacob Elberg and his interest in the Irrevocable Trust. The payment to Michael will be made as follows: \$410,000 by Faivish from the funds being held by GSS in escow and \$90,000 by the Estate of Jacob Elberg from the Ruben Elberg Remainder Amount being held by Abruma Ferminmus in escow. Such payments shall be made out of escow by the escous agents by electronic wire transfer of immediately available funds payment to wiring instructions provided by Michael. Simultaneously with and contingent upon payment being made, Michael authorizes the release from escous of the connect (Exhibit I), given in accordance with Section 7-1.9 of the EPTL, to the amendment of the Irrevocable Trust as described hereirabove and thereby relinquishing his interest as a remainder beyerficiary of the Irrevocable Trust.
- (g) Each of the Elberg Parties agrees to severally indenmify, defend and hold barmiess Abrama Fensterman and GSS and their respective agents and representatives from all losses, damages, claims, liabilities, costs, and expenses incurred by them, or any of them, as a result of their performance of duties as escrew agent in accordance with this Agreement for such Elberg Party is accordance with this Agreement.
- Payment by Fairlish of Certain Costs and Expenses. As consideration in part for Buben discontinuing the Fraud Aution, in which Fairlish is a defendant:
- (a) Faivish has agreed to establish the SNT for Essas, as described bureirabove, and to pay and be responsible for payment of, any and all toors, fees, costs, and expenses (including attorneys' fees) in connection with the establishment of the SNT for Esma, including without limitation, firm of the Guardians ad Liters for Esma. The Elberg Parties agree that no further accountings need to be filed with the Queens Sutrogate's Court. Faivish will also pay all taxes, firm, costs, and expenses incurred with respect to the echane of funds being held in three (5) separate excess accounts by Old Republic National Title Insurance Company pursuant to the Merger Transaction.

- (h) Faivish shall be responsible for payment of (i) 60% of the property taxes, fees and penalties due in arrows on the Broom Property (approximately \$21,000) and 100% of all transfer taxes, fees, costs and expenses associated with the transfer of the Broom Property to Rubes as contemplated by this Agreement, and (ii) up to a maximum of \$50,000 towards all fees, costs and expenses associated the transfer and reregistration of the Medallions to Ruben. Upon presentment of proper documentation for fees, costs, and expenses incurred or to be incurred in connection with the transfer and reregistration of the Medallions, GSS shall release the \$50,000 of fands being held in encrow to Ruben as payment or reinsbursement therefor.
- Tamura and Faivish acknowledge and agree that there is at least \$400,000 (the "Thrushold Liability Amount") of claims against the Debtor Bornwers in respect of Outstanding Debtor Borrower Liabilities (as defined below). The Parties agree that to the extent say Outstanding Debtar Borrower Liabilities are required to be paid, (i) Ruben is responsible for payment of 20% of any Outstanding Debtor Borrower Liabilities up to a maximum aggregate amount of \$80,000, and (ii) Tamers and Faivish are responsible for (A) 80% of any Outstanding Debtor Borrower Liabilities up to and including the Threshold Liability Amount (or \$320,000) and (B) 100% of all Outstanding Debtor Borrower Liabilities in excess of the Threshold Liability Amusait: For purposes hereof, "Outstanding Debtor Borrower Liabilities" means all tuxes, fires, charges, costs, penalties and other amounts doe and owing by any of the Debtor Borrowers. including without limitation to release any Liens imposed on the Medallious and with respect to claims made to the Bankruptcy Court, including without limitation claims by the New York State Department of Taxation and Finance, and claims which are otherwise known or should be known. by the Debtor Borrowers, including claims of the Text and Limousine Commission, Ruben basely authorizes Abrams Femilieman to refense up to \$80,000 from the amount then being held by it in encrow in satisfaction of Ruben's obligations under this Section 5(c) and Faivish hereby authorizen. GSS to release \$320,000 from the amount being held by it in encrow in uninfaction (in whole or in part) of Faivish's obligations under this Section S(c). Turners and Faivish shall have the right to challenge any Outstanding Debtoe Borrower Liabilities and any refunds of amount previously paid will be uplit pro rata between Rubes (20%), on the one hand, and Tamura and Faivish (80%), on the other hand.

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(a) Effective on the Settlement Effective Date, and subject to Settlement of the filtery Parties, on behalf of themselves and each of their respective current and former parent companies, subsidiaries, members, affiliates, predecessors, successors, insurers, reinsurers, trusts, beirs, beneficiaries, assigns, including any bankruptcy entate or trustee (subject to approval of the flunkruptcy Court), and any of their past or present efficiers directors, employees, executors, attorneys, accountants, members, shareholders, partners, principals, representatives, and agents (the "Effery Releasing Partier") (subject to approval of the Bankruptcy Court for the Debtor Borrowers), and cach of them, licenty release and forever discharge each other Effery Party and each of their respective marrent and former parent companies, subsidiaries, members, affiliates, predocustors, successors, instants, estimaters, trusts, beies, beneficiaries, autigns, including any bankruptcy estate or trustee (subject to approval of the flankruptcy Court), and any of their past or present officers directors, employees, executors, attorneys, accountants, members, shootholders, partners, principals, representatives, agents and any Ossedian ad Liters appointed by the Surrogate's Court, Querra Courty (collectively, the "Efferty Reinseggs") of and from any and all

claims, counterfaires, demands, judgments, obligations, actions or causes of action, set offs, rights, Liens, liabilities, demages, costs, experiess (including resonable attorneys' fees), and compensation (collectively, "Claims") whatsoever, whether in law or is equity or otherwise, whether utiling under contract, tort, statute, or any other legal theory or basis of any nature whatsoever, which any such Eiberg Releasing Party ever had, now bus, or may have against the Eiberg Releasing them based upon any act, omission, transaction, agreement, event, or other occurrence taking place or existing on or prior to the effective date of this release, whether known or unknown, suspected or unsuspected, claimed or concealed, contingent or non-contingent, asserted or not asserted of not asserted (the "Eiberg Released Claims").

- (h) Norwithstanding anything to the contrary herein or in the Capital One Settlement Agreement or any other agreement, document, instrument executed in connection between therewith, the releases contained in this Sestion 6 shall have no effect upon and are not intended to release any purson or entity of (i) its rights, obligations or Claims arising under or relating to this Agreement, the Capital One Settlement Agreement, or Claims arising under or relating to this Agreement or the Capital One Settlement Agreement or any document, instrument, or agreement entered into in connection with this Agreement or contemplated hereby, including the enforcement of such person's or entity's rights, obligations or Claims threatf, and (ii) any Claims which Ruben has brought (including the Purchasers' Action) or may in the future being against International Bank of Chicago, Frank Weng, Westlead Bridge LLC d'b/s Westlead Inc., Roymond Ku, New Fund, LLP, NYC Metro Rogional New Fund LLP, Lew Offices of Joe Zhonghong Zhou and Amusciates PLLC, Joe Zhonghong Zhou, Royal HI, Royal CP, or any one of them, or their successors and energy.
- (c) Covenant Not to Son. Each of the Elberg Parties covenants that such person or entity shall not commence any action or proceeding against (i) any of the Elberg Releasems relating to, addressing or encompaning any Elberg Released Claims, or (ii) ortens otherwise expressly set forth in this Agreement, any Elberg Party relating to the Purchasers' Action (and for clarity, this provision shall in no way effect, directly or indirectly, the purpose and intent of Seggion 6(b) hereof).
- Prior Settlement Void. Effective as of the Settlement Effective Date, the Prior Settlement and any other proposed settlements prior to such date shall be deemed null and vaid abinitio and without further force or effect.
- B. Representations and Warranties Knowing each Elberg Party is relying thereor, and as a material inducement to each Elberg Party to consuments the Settlement and the other transactions contemplated hereby, each of the Elberg Parties represents and warrants that the statements contained in this <u>Section 8</u> are true and correct as of the Execution Date and the Settlement Effective Date:
- (a) Each of the Elberg Parties represents and warrants to the other Elberg Parties that:
- (i) such Elberg Party is the legal and heneficial owner of all Claims released by such Elberg Party herein;

- (ii) such Eiberg Party has not assigned, pledged, or contracted to assign or pledge any of the Claims released by such liberg Party herein;
- (iii) subject to the approval of the Bankroptcy Court and the Queens Surregate's Court (as applicable), such Elberg Purty possesses all requisite authority and power to mater into and comply with the terms of this Agreement, the Settlement and the other transactions contemplated hereby;
- (iv) subject to the approval of the Bankropicy Court and the Queens Surrogase's Court (as applicable), such Elberg Purty has obtained all authorizations, councits, and approvals that are required with respect to performance and execution of this Agreement, and
- (v) subject to the approval of the Bankruptcy Court and the Queens Sumgate's Court (as applicable), no further action, other than as expressly provided in this Agreement, is necessary to make this Agreement a valid and binding obligation of such Elberg Party.
- (b) Each individual signing this Agreement on behalf of any Elberg Party hareby represents and warrants that such individual has been duly authorized to sign this Agreement on behalf of the Elberg Party for whom such individual is signing.
- (c) For purposes of this Settlement, the Elberg Parties acknowledge and agree and do not content that Rubes is the title owner of the Innel Property.
- (d) Tursum and Ruben, as Co-Executors of the Estate of Jacob Elberg, represent and agree to each other that they will diligently seek approval of this Agreement and the Capital One Settlement Agreement by the Queens Surrogate's Court in order to bind the Estate of Jacob Elberg to the terms of this Agreement and the Capital One Settlement Agreement.
- (a) Tamara represents, warrants, and agrees that all federal, state, and local tax returns required to have been filed by Royal CP, Royal HI, RORE, RRIDM, Royal LIC, the Estate of Jacob Elberg, and the Bornewers, with the advice and amistance of Citrin Cooperman, as the accountants for each of the foregoing entities, have been filed and all federal, state, and local taxon, assessments and other charges which were that and owing by any of the aforesaid entities (whether or not reflected on the tax returns) have been timely paid to the appropriate taking authority. Tamara does not know or have reason to know of any basis for any additional assessment or charge in respect of any such taxon. Tamara shall indemnify Roben with respect to derivative.
- (f) Tamara agrees to file all federal, state, and local tax returns of the Estate of Jacob Elberg in a manner consistent with the terms and provisions of this Agreement.
- (g) Tamara, as Co-Escustor of the Estate of Jacob Elberg, represents and warrants that the Borrowers are and have been since the date of Jacob Elberg's death, S-Corporations for U.S. federal and New York State increase tax purposes and all tax returns for Borrowers have been timety filmd.

- (b) The Elberg Parties acknowledge and agree that Rubon has sen born a participant in and will not, except as required by this Agreement or the Capital One Settlement Agreement, participate in the management or administration of the Estate of Jacob Elberg.
- (i) Tamara represents and agrees that Tamara and Faivish did not receive, directly or indirectly, including through any family member or other relative, any financial or other benefit or incentive from the purchanees or any other third parties in connection with the Merger Transaction which has not been disclosed on the Flow of Funds Memorandum attached benefit on Schedule A and made a part benefit. Faivish represents and agrees that neither he sor, to the best of his knowledge, Tamara received, directly or indirectly, any financial benefit or incentive from the purchasers or any other third parties in connection with the Merger Transaction which has not been disclosed on the Flow of Funds Memorandum attached hereto as Schedule A and made a part hereof.
- (j) The Guardian ad Litters for Euma Elberg, Lori Sullivan, Esq., has discussed the terror of this Agreement and the Settlement with Euroa, and Lori Sullivan, Esq., parmant to the authority granted to her by Queens Surrogate's Court, agrees to execute this Agreement and occumumate the Settlement pursuant to the terms beroof and the other applicable transactions contemplated hereby.
- (k) Tamara and Ruben agree that as of August 11, 2023 there was 19,446,429.76 in the Entate Bank Account and \$4,416,801.83 in the SHEFA hank account, and, based on the information provided by Old Republic, a total of \$4,598,898.87 in the Old Republic encrow accounts. Tamara further represents and agrees the following are the correct amounts held in the following accounts: (i) TD Ameritande Account No: 755-041362 \$2,367.00; (ii) Royal One Real Estate LLC Estate Cash Account, Capital One Bank Account No: 9554006305 \$69,744.90; (iii) Royal Real Estate Management LLC, Estate Cash Account, Capital One Bank Account No: 7044045314 \$65,011.44; (iv) Capital One Account No: 7014016273 \$1,728.00; and (v) Capital One Account No: 7040728656 \$1,546.00. To the knowledge of the Etherg Parties, not finish have been withdrawn from any of these accounts after August 11, 2023 other than parameter to the Agreement for Advance of \$1,550,000.
- 9. Obligation to Proceed in Good Faith and Firther Assurances. Each of the Elberg Parties shall take or cause to be taken all actions, and do or cause to be done all things, necessary, proper or advisable to implement the Settlement and the transactions contemplated by this Agreement at any time on or after the Execution Date, including without limitation proceeding in good faith and cooperating with one another by ferniabing any additional information, records or data, or executing and delivering any additional documents, instruments, releases, assignments, undertakings, approvals, opinions, financing statements and/or the like (whether or not expressly referenced berein) as may be remonably requested by any of the Elberg Parties or their counsel to consummate or otherwise implement the Settlement and the transactions contemplated by this Agreement. If any legal or structural impediment arises that would provert, binder, or delay consummation and implementation of the Settlement, the Elberg Parties agree to take all steps reasonably necessary to address any such impediments so that each of the Elberg Parties receives the full benefit of the Settlement to which they are entitled hereusaler.
- 10. Confidentiality. The Elberg Parties agree (and shall cause each of their respective officers, directors, agents, officiers, agents, representatives, heirs, reconsors and unrigns) (a) to

maintain in strict confidence and not to use or disclose any aspect of this Agreement and the discussions, pegotiations, terms, status or conditions relating to fire transactions contemplated by this Agreement and any and all confidential or amultive information, whether written or oral or any other format, concerning any of the Elberg Parties (collectively, the "Confidential information") to any person or unity other than each such Etheng Party's respective officers, directors, and authorized representatives (including legal advisors), and then in all cases only on a need to know busin; and (b) to cause and require all such persons or entities to whom such Confidential Information is disclosed to shide by the provisions of this Section 10. The Elberg Parties shall protect the Confidential Information of the other Elberg Parties with the same degree. of case with which such Elberg Party protects such Elberg Party's own information of like importance. Nothing contained in this Section shall prevent any Elburg Party from making such disclosures as necessary (i) to order to comply with this Agreement, (ii) in order to comply with reporting, disclosure, filing or other requirements imposed on such Elberg Party by any governmental authority, (iii) in order to advise a court of the status and general terms of this Agreement, or (iv) in order to otherwise comply with applicable law, regulation, or legal subposmaor compel Bigation or other legal action or proceeding; provided, however, that if any Elberg Party receives notice of an attempt to compel them by applicable law or legal process to disclose any Confidential Information, then such Elberg Party shall promptly actify the other Elberg Parties in writing (but in no event later than two (2) business days of receipt of such notice) and shall take all steps to postpone such disclosure until all Elberg Parties have had an opportunity to consider such notice, and shall further, if they are required to make such a disclosure notwithstanding such efforts, to disclose only that portion of such information which such Elberg Party is advised by legal coursel is required to be disclosed. The restrictions contained in this Section 10 shall apply regardless of whether such Confidential Information has been labeled, marked, or otherwise identified an confidential.

- II. Adequate Representation. Each of Elberg Parties has been represented by legal counsel of their choice and understands and in fully assume of the terms contained in this Agreement and this Agreement's legal affect. Each of the Elberg Parties has volumently, without correctors, duress or undue influence of any kind, entered into this Agreement and the documents executed in connection with this Agreement. No Elberg Party is relying upon and has not relied upon any representation, warranty or statement made by any of the other Elberg Parties in connection with such Elberg Party's execution, delivery, and performance of this Agreement, other than the representations, warranties, and statements expressly made by such other Elberg Party in this Agreement.
- 12. Severability. If any term or provision of this Agreement is held by a court of compensat jurisdiction to be invalid or unenforceable, in whole or in part, for any reason, such term or provision shall be ineffective to the extent of such invalidity or unenforceability only and shall not impair or invalidate the remainder of this Agreement which shall continue in full force and effect. Any term or provision determined to be over broad in any manner shall be interpreted in referred to give that term or provision the maximum effect permissible by applicable law and equity, and the Elberg Parties agree to the enforcement of the term or provision as so modified.
- 13. No Admission of Liability. This Agreement is a good faith, negotiated resolution of disposed claims. Neither this Agreement not any act performed or document executed pursuant to or in furtherence of this Agreement is admissible in any court proceeding, except those.

proceedings, if any, leading to judicial approval of the transactions contemplated by this Agreement, and any proceeding brought to enforce this Agreement. No Elberg Party, by signing that Agreement, solvaits liability or fault, or admits the validity of any claim made by any other Elberg Party or person or certify with respect to any matter that in the subject of this Agreement.

- 14. Equitable Relief. Each of the Elberg Parties acknowledges and agrees that irreparable injury to the other Elberg Party(ies) would operat in the event any of the provisions of this Agreement were not performed in any material way or in accordance with their specific terms or were otherwise materially becomed and that such injury would not be adequately compensable by the remedies available at law (including the payment of money damages). It is accordingly agreed that, notwithstanding any provision become to the contrary, in addition to any remedies at law, each Elberg Party shall also be emitted to specific enforcement of, and injurctive relief to prevent any violation of, the terms hereof without the necessity of posting bond or proving actual damages. The other Elberg Parties will not take action, directly or indirectly, in opposition of such Elberg Party sceking such relief on the grounds that any other remedy or relief is available at law or in equity.
- 15. Non-Disparagement. Each of the Etherg Parties covenants and agrees that such Elberg Party shall not, directly or indirectly through any porson or entity, in any way disparage, call into disreputs, or otherwise deferse or alsoder the other Elberg Parties or such other Elberg Parties' owners, officers, directors, employees, agents, representatives, affiliates, heirs, naccounts and assigns in any manner that would damage the business or reputation of such other Elberg Parties or their respective owners, officers, directors, employees, agents, representatives, affiliates, beirs, successors and assigns.
- 15. <u>Counterparts</u>. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall countitate so original, but all of which when taken together shall coomings a single contract. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or other electronic meson shall be as effective as delivery of a manually executed counterpart of this Agreement.
- 17. Entire Agreement, Exhibits and Schudgles. The Elberg Parties acknowledge that this Agreement and the Capital One Settlement Agreement constitute the entire agreement on the matters addressed benein and thorein, except as set forth herein or therein, supersedes all prior agreements or understandings between the Elberg Parties, oral or written, including without limitation the Prior Settlement. Each of the exhibits and schedules attached hereto is expressly incorporated herein by reference and made a part of this Agreement, and all references to this Agreement shall include the exhibits and actedules.
- 18. <u>Binding Effect: Fullage to Be Approved</u>. This Agreement shall be binding upon and inure to the benefit of the Elberg Parties and their respective heirs, successors, and assigns. In the event this Agreement and the Capital One Settlement Agreement are both not approved by the Queens Surrogate's Court and the Bankruptcy Court, this Agreement and the Capital One Settlement Agreement shall be of no force or effect and may not be used by any Elberg Party for any purpose.
- Governing Law, Intradiction, Walver of Jury Trial. The governing law of this.
 Agreement shall be the substantive and procedural law of the State of New York without regard

to obside-of-law as conflicts-of-law principles. Any action based on this Agreement or to enforce ony of its terms shall be brought in the Queens Surrogate's Court or the Bunkruptcy Court, as applicable. Each of the Eiberg Parties (i) submits to the personal jurisdiction of the Queens Surrogate's Court and the Bankruptcy Court, and (ii) hereby knowingly, voluntarily, and intentionally waives any right it may have to a trial by jury of any dispute arising under or relating to this Agreement and agrees that any such dispute shall be tried before a judge sitting without a jury.

- 20. <u>Form and Expenses</u>. Except as expressly set forth herein, each of the Elberg Parties will be responsible for their own fees, costs, and expenses, including, without limitation, legal, accounting, and out-of-pecket expenses incurred in connection with negotiating and entering into this Agreement and any other agreements entered into as a result of the same.
- Construction. This Agreement shall be construed as if the Elberg Parties jointly prepared this Agreement, and any uncertainty or ambiguity shall not on that ground be interpreted against any one Elberg Party.
- 32. <u>Amendment and Modification</u>. This Agreement council be amended, modified, or supplemented orally. The Elberg Parties may amend, modify, or supplement this Agreement only by a writing signed by each of the Elberg Parties.
- 23. Negliggs. Any notice, request, demand, claim or other communication required or pressitted to be delivered, given or otherwise provided hereunder or under any other appearant extend into its connection herewith must be in writing and (a) delivered in person (in which case, it will be effective upon delivery), (b) transmitted by electronic (email) transmission (in which case, it will be effective upon receipt of confirmation of successful transmission to recipient), or (c) sent by overnight delivery by Express Mail, Federal Express or other nationally recognized carrier (in which case, it will be effective upon delivery), in each case to the intended recipient at its last known address reflected in the records of the Elberg Parties and (i) if to Bubez, with a copy (which shall not constitute notice) to Ahranas Fensterman, LLP, 3 Dakota Drive, Suite 300, Lake Success, New York 11042; Atts: Robert Ahranas, Esq.; and (ii) if to Tarsara and/or Fairish, with a copy (which shall not constitute notice) to Greenfield Stein & Senior, LLP, 600 Third Avenue, New York, New York 10016; Atts: Gary B. Freidman, Esq.
- 24. Survival. The terms, conditions, representations, and warmenies contained in this Agreement shall survive the execution and delivery of this Agreement and the dissolution of any Elberg Party, and shall be fully binding upon the respective successors or assigns of each Elberg Party.
- Headings. The section headings in this Agreement are for convenience only and may not be used in construing this Agreement.
- 26. No Third Party Beneficiaries. This Agreement is intended for the benefit of the Elberg Parties and their respective successors and assigns, and expect as expressly set forth in Section 5, is not for the benefit of, nor may any provision hereof be enforced by, any other person or entity. For clarity, nothing in the Agreement shall prevent or impact any Elberg Party's right to proceed against any third party.

- 27. Status Quo Agte. In the event the Settlement Effective Date (under this Agreement and/or the Capital One Settlement Agreement) does not occur, such of the Elberg Parties shall return to its status quo ares as of immediately prior to the Enseation Date and for clarity, the releases of Elberg Parties set forth in Session 6 of this Agreement shall be void automatically and without further art by any Elberg Party, and each of the Elberg Parties shall have all of its Claims against the other Elberg Parties preserved and shall be entitled to pursue all rights and remedies, whether at law or in equity, available. This Section 27 shall become rull and void and of no force and effect immediately upon the Settlement Effective Date.
- Agreement or any of the rights of an Elberg Party hereunder shall be effective or binding unless such waiver shall be in writing and signed by the Elberg Party claimed to have given or conserted thereto. Except to the extent otherwise agreed in writing, no waiver of any term or condition of this Agreement by any Elberg Party shall be construed as a waiver of a subsequent breach or failure of the sares term or condition, or waiver of any other term or condition of this Agreement. No failure or delay by any Elberg Party in exercising any right or remedy provided by law under or pursuant to this Agreement shall impair such right or remedy or be construed as a waiver of it or preciode its exercise at any subsequent time, and no single or partial exercise of any such right or remedy shall preciode any other or further exercise of it or the exercise of any other right or remedy.

(Signatures Pages Follow)

IN WITNESS WHEREOF, the Elberg Farties have executed this Agreement as of the Execution Date.

By: Sur Full Va. Esma Elberg, by Lori Sullivan, as Guardian ad Litero, pursuant to attached orders of Surrogate's Court, Queens County, dated January 14, 2023 and September 25, 2023	BABRI TRANS CORP. By: Sulliver, as Guardian ad Litem, pursuent to ettached orders of Surroguste's Court, Queens County, dated January 24, 2023 and Supromber 25, 2023
By: Jan. J. Livo Elson Elberg, by Lori Sullivan, as Guardian ad Liters, pursuant to attached orders of Surrogan's Court, Queens County, shood January 24, 2023 and September 25, 2023	By: Jack Jordan, as Guardian and Liters, pursuant to attached orders of Surrogate's Court, Querns Crossty, dated January 34, 2023 and September 25, 2023
By: Julie Julie vo. Esca Elberg, by Lori Sullivan, as Guardian ad Liters, pursuant to attached orders of Surrogate's Court, Queens County, dated January 24, 2023 and September 25, 2023	By: And Fulls vit. Elma Elberg, by Leri Sullivan, in Guardian and Linem, pursuant to attached orders of Surrogate's Court, Queens County, dated January 24, 2023 and September 25, 2023
By: July July O., Estra Elberg, by Lori Sullivan, as Guardian ad Litere, pursuant to attached orders of Surrogate's Court, Queens County, dated Jamany 24, 2023 and September 25, 2023	N. V. ENERGY TAXI CORP. By: Jake Follows: as Guardian ad Liters, pormant to attached orders of Surrogain's Court, Quenta County, dated January 24, 2023 and September 25, 2023
By: N.Y. CANTEEN TAXI CORP. By: Act. Actility a. Esses Elberg, by Lori Sullivan, as Guardian ad Liters, pursuant to attached orders of Surrogate's Court, Queens County, dated January 24, 2023 and September 25, 2023	N. Y. GENESIS TAXI CORP. By: And Public Value Estra Elberg, by Lori Sullivan, in Guardian and Liters, pursuant to attached orders of florrogate's Court, Queens County, dated January 24, 2023 and September 25, 2023

By: ALL FALLIVA- Esma Elberg, by Lori Sullivan, as Guardian ad Liters, pursuant to attached orders of Surrogate's Court, Queens Courty, dated January 24, 2023 and September 25, 2023	By: Jack Sullivan, in Grandian ad Litera, parsuant to attached orders of Surrogate's Court, Queens County, danid January 24, 2023 and September 25, 2023
By: J-44 For Sullivan, as Chardian ad Liters, pursuant to attached orders of Surrogate's Court, Queens Courty, dated January 24, 2023 and September 25, 2023	By: THE PULLVAY. Earns Elberg, by Leri Sullivan, as Guardian and Liters, pursuant to attached orders of Surrogate's Court, Queens County, dated January 24, 2023 and September 25, 2023
By: A.C. Fullivan, as Guardian ad Liters, pursuant to attached orders of Surrogate's Court, Queens County, dated January 24, 2023 and September 25, 2023	Ity: ALL Sullivan, sa Guardian and Litera, pursuant to attached orders of Surrogate's Court, Quoess County, dated January 24, 2023 and September 25, 2023
By: Acc Activary Essea Elberg, by Lori Sullivan, as Guardian ad Limm, parstaget to attached orders of Surrogate's Court, Queens County, dated January 24, 2023 and September 25, 2023	By: Au Aulland Survey, an Guardian and Libers, pursuant to attached orders of Surregato's Court, Queens Courty, daired Jeresary 24, 2023 and September 25, 2023
By: 12 11 11 12 12 12 12 12 12 12 12 12 12	TAMAR PEWZNER, individually Tamar Province RUMEN PLENERG, individually 15.3

THE ESTATE OF JACOB ELHERG. FAIVISH FEWZNER, individually by and through its co-executors, Tamar Pilyaner and Rubes Elberg Fairoth Presents Name: Turnar Polycoper Title: Co-Engestes-103 ESMA ELBERG, individually Name: Ruben Elhera Title: Co-feedbates Dama Elberg/by Lori Sullivan, as Guardian ad-Litten, purplet to attached orders of SHALOM ELHERG (SAM), individually Surrogate's Coort, Guenno County, dated January 24, 2023 and September 25, 2023 and the order of the Surrogate's Court, Queens Shalom Elberg (Sun) County, dated January 22, 2024. MICHAEL ELHERG, individually The Court has reviewed and approves the terms of this Stipulation of Settlement and authorizes the Guardian ad Litem to enscutz-Michael Elberg name pursuant to SCFA 2106:

Honorable Puter J. Kelly, Survegate

THE ESTATE OF JACOB ELBERG. FAIVISH PEWZNER, indisklundy by and through its or-executors. Tamor Normer and Batten Elberg Fanish Pressor State: Turner Newspar Title: Co-Esperges a mile ESMA ELBERG, individually Name Rabet Billing Title: Co-Belliator Finesa Elbergeby Lori Stallivon, no Guardian ad Litten, purposen to attached sedem of SHALOM ELHERG (SAM), individually Surrogate's Court, Queins County, dated January 24, 2023 and Septimber 25, 2023 and Shaken Ethern (Sees) the order of the Surrogate's Court, Queens County, dated January 22, 2024.

MICHAEL ELHERG, individually

The Court has reviewed and approves the terms of this Stipulation of Settlement and authorizes the Grandien ad Librar to execute some payment to SCPA 2106:

Honorable Peter J. Kelly, Sarrogate

Schobils.A

Flow of Funds Memorandum

(See Attwined)

CHOWST PLAZA FLOW OF FUNDS MEMORANDESI

August 28, 2016

Reference in made horeby to that contain Agreement and Plan of Morgar dated August. 2018 (the "Agreement"), between and among Royal One Real Estate II, LLC, a New York. limited Eability company (the "Buser"). Royal CP Hotel Holdings, L.P., a New York Geriad. partitionless ("Royal CP"): Royal III Word Floridings, L.P., a New York funded partnership ("Recoil HE") (Recoil CP and Recoil Hi are each individually referred to become at a "Limited Partnership" and authorizely as the "Limited Partnerships"); Conhapple Corp., a New York corporation ("Unitempta"), Keyal One Beal Estate, LLC, a New York Estated Subility company ("HORE"), Royal IJC Boal Estate Management, LLC, a New York Toront Hability company ("BLIC"), Royal Rusi Tetate Management, LLC, a New York limited Rability company C'RREM') (RORE, RUIC, BOIL, and RREM are sometimes individually referred to benin as a "LLC" and collectively as the "LLCs": NFC Fixed, L.P. a New York listing partnership ("NYC Earth's NYC Metro Regional Center, LLC, a New York limited liability company ("NYCMRC"), and Westlead Capital, a British Virgin Ideal corporation ("Westlead") (NYC Fund, NVCMI0C and Westlead are transitiones collectively referred to become as the " horrested Third Perties). Capitalized terms used but not otherwise defined farries will lave the measings set fiseth in the Agreement.

L. SOURCES OF FUNDS

On the Classing Date, the Beyor shall send by were transfer to Chicago Title and Trees ("ETAT") the following sums for dishuscement as set forth below.

A. Hecakelows of Incursing Wire Transfers

tion	Aittret.
Remaining historic Parchase Price	\$ 27.040.000.00
Class B Consideration	5.800,000,00
Payord of Mortgagor (as of 8/25/16)	8.4304.581.29
Roya Stare, Title Expense	1

II. CLUSDIC DATE PAYMENTS

On the Closing Date, the Buyer through its surfacelast representative, Judy Part Chang (the "Bayer's Representative") and the LLCs through their authorized representative, Tamara Pressure (the "Clies C Bapersonnities") shall direct CTAT to make the following parties:

A. Brokdown of Payments to be made on the Cloting Date

lion	Parment Amount	Lou	Mire Transfer Dates Ofens
Class II Consideration Old of Transfer Tax of \$24,390 poid to CTAT pressure to choosing disconnected	\$775,3681,00	Curbapyle Corp.	Bank: JP Morgan Chane ABA No.:021000021 Alumani No.:200939003 Assessed Nature Cuchapile Corp.
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Environment Discorn	356,000.00	čild Republic National Xide Innarques Co.	Bank: JP Morgan A&A No.: 021000021 Ascenan No. E1E190676 Ascenan Name: Old Bagoletic National Title Insureme Co.
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Choosing Proposents on the Lint which is stracted benuts seel reade a just borned as Exhibit A			

EXHIBIT A.

List of Pigeness of Excluded Liabilities/Choosing Payments.

line.	Commit.Ament	Direc	Wes Transfer fastructions
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National Exposure	\$ 5250.00	Best Skey Doors, Iru:	Bank: Ciribank ABA No.: 021000009 Account No. 4992003073 Account Name: But Hay Deess, Inc.
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Soruel Express	3.4,279.00	Goldfieb & Flesse LLP	Hank: Hank of Agurica ARA No.: 028000293 Account No.: 2150050018 Account Name: Guidfash & Fleece LLP

Jim	Paramet Amend	Dates	Wes Tombe Instudion
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Accress Capanian	\$1,230.00	McElwy Destrain McElwy Destrain McCarpental LLP	Mark: Capital One Bank AlliA No.: 02) 407912 Account No. 703-7148963 Account Name: McEling Deutsch Malvanay & Carpenter Adorney Trust Account
Accred Esperan	\$30,875.36	Numeraka Ashibara Anhimut PC	Bank: Savoy Bank ABA No.: 826814487 Account No. 2585163 Account Name: Nobotaka Ashibara Architest, PC.
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Astrond Expresso	\$5,000,00	Breeda K. Wicharte	Hod: CHECK REQ. Address: 120 Backingtum Ave. Tremos, NT 08618

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Account Expressor – Royal CP	\$13,000.00	SCS: Treaser	Busk: Busk: CHECK REQ. Address: Internal Europase Service PO Box 9941, STOP 65525360 Opdes, UT 84409-8441
Relaboration for Associating Fire	\$181,58120	Ciria Corpornan B. Company, 13.P	Bank: Signatury Bank ARA No.: 026013576 Account No.1500628183 Account Name: Citrix Cooperman & Company, 1.1.8
Lagad Frame	\$73,348.00	Niceand & Milweberg, U.S.	Bank: JP Morgan Chase AllA No.: 021000021 Account No.737591882 Account Nante: Newsorth III Mitsuberg, LLP
Legal Fent	1 28.628.00	Andrew Tulback, Eng.	Block: Cithank: ABA No. 023000000 Account No. 4098T36600 Account Name: Andrew Tollack, Eug.
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[Fire-of Fault.]

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Duts	Proment Advance	Cases	Mics.Transfer.Instructions	
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Declaratory Judgment Action

(See Attached)

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SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

PRESENT:	HON. ANDREW BORROK		PART	IAS MOTION 53EFM
		Justice	•	
		X	INDEX NO.	653373/2016
RUBEN ELB	ERG, Plaintiff,		MOTION DATE	02/14/2020, 02/18/2020
	- V -		MOTION SEQ. N	o 006 007
REAL ESTA MANAGEME MANAGEME LLC,ROYAL HOLDINGS I	E CORP., TAMARA PEWZNER, I TE, LLC,ROYAL REAL ESTATE NT LLC,ROYAL LIC REAL ESTA NT LLC,ROYAL HOTEL & RESO CP HOTEL HOLDINGS LP, ROY LP, ZHU QING, FENG LI, MENG ANG, HONG GE, QIN SI, YANG	ATE DRTS /AL HI HOTEL SHA CHEN,		+ ORDER ON OTION
	Defendant.			
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163, 164, 165 183, 184, 185 238, 239, 240	e-filed documents, listed by NYS , 166, 167, 168, 169, 170, 171, , 186, 187, 188, 189, 190, 191, , 241, 242, 243, 244, 245, 246, 261, 262, 263, 264, 305, 306, 3	172, 173, 174, 227, 228, 229, 2247, 248, 249, 2	175, 176, 177, 178, 230, 231, 232, 233, 250, 251, 252, 253,	179, 180, 181, 182, 234, 235, 236, 237,
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196, 197, 198 216, 217, 218 274, 275, 276 294, 295, 296	e-filed documents, listed by NYS, 199, 200, 201, 202, 203, 204, 219, 220, 221, 222, 223, 224, 277, 278, 279, 280, 281, 282, 297, 298, 299, 300, 301, 302, 326, 327, 328, 329, 330, 331, 33	205, 206, 207, 2 225, 226, 265, 2 283, 284, 285, 2 312, 313, 314, 3	208, 209, 210, 211, 266, 267, 268, 269, 286, 287, 288, 289, 315, 316, 317, 318,	212, 213, 214, 215, 270, 271, 272, 273, 290, 291, 292, 293,
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	n of the dispute between the p			
governing pa	rtnership agreements for Roya	l CP Hotel Hol	dings LP (Royal C	(P) and Royal HI
Hotel Holdin	gs LP (Royal HI ; Royal CP a	nd Royal HI, he	ereinafter, collectiv	ely, the LPs).
Upon the for	egoing documents, for the reas	sons set forth or	the record $(1/14/2)$	(021) and as

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otherwise set forth below, because the parties treated the November LP Agreements as the operative documents and because there was no cut-off as to when the November LP Agreements needed to be accepted by or termination of the offer of the November LP Agreements, which Mr. Jensen accepted by performance and executed, the November LP Agreements are the governing agreements for the LPs. The record does not support the sanction sought by the defendants of striking of the complaint. Therefore, Ms. Pewzner's motion for summary judgment and/or to strike the complaint (Mtn. Seq. No. 006) is denied and Mr. Elberg's motion for summary judgment (Mtn. Seq. No. 007) is granted.

The LPs were organized in connection with the development of two hotels in Long Island City, New York, undertaken by Jacob Elberg (now deceased) and Ruben Elberg, his son. The August 10, 2012 limited partnership agreement of Royal CP (NYSCEF Doc. No. 167; the CP August Agreement) and the August 3, 2012 limited partnership agreement of Royal HI (NYSCEF Doc. No. 166; the HI August Agreement; the CP August Agreement and the HI August Agreement, hereinafter, collectively, the August LP Agreements), were each by and between Royal One Real Estate LLC (RORE) as the General Partner, each person who was admitted as a Class A Limited Partner, as reflected on the books and records of the Partnership, Crabapple, Inc. (Crabapple) as the Class B Limited Partner, and RORE as the Class C Limited Partner. Jacob Elberg, as President of RORE, signed the August LP Agreements, Peter Jensen signed the August LP Agreements as President of Crabapple, and the signature page of the August LP Agreements acknowledges that the Class A Limited Partner is deemed to have executed the August LP Agreements by their signature of a subscription agreement accepted by the General Partner.

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The November 30, 2012 Limited Partnership Agreement of CP (NYSCEF Doc. No. 168; the CP **November Agreement**) was by and between RORE as General Partner, each person who was admitted as a Class A Limited Partner, as reflected on the books and records of the Partnership, Crabapple as the Class B Limited Partner, RORE and Royal Real Estate Management LLC (**RREM**) as the Class C Limited Partners and Reuben Elberg as the Class D Limited Partner. The November 30, 2012 Limited Partnership Agreement of HI (NYSCEF Doc. No. 169; the HI **November Agreement**; the CP November Agreement and the HI November Agreement, hereinafter, collectively, the **November LP Agreements**), was by and between Royal LIC Real Estate Management LLC (Royal LIC), each person who was admitted as a Class A Limited Partner, as reflected on the books and records of the Partnership, Crabapple as the Class B Limited Partner, RORE as the Class C Limited Partner and "Reuben" Elberg as the Class D Limited Partner. Jacob Elberg signed the November LP Agreements as the Managing Member and Sole Member of RORE, (and [x] with respect to the CP November Agreement, as the Manager and sole Member of RREM and [y] with respect to the HI November Agreement, as the Manager and sole Member of Royal LIC), Ruben Elberg signed on behalf of himself, and Mr. Jensen signed as President on behalf of Crabapple. Just like the August LP Agreements, the signature page of the November LP Agreements acknowledges that the Class A Limited Partner was deemed to have executed the November LP Agreements by their signature on a Subscription Agreement accepted by the General Partner.

With respect to distributions in the event of a Capital Event or from Dissolution, Section 3.4.2 of the November LP Agreements provides as follows:

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The Net Proceeds from a Capital Event and/or distribution resulting from the dissolution of the Partnership shall be distributed within one hundred twenty (120) days of such Capital Event or dissolution of the Partnership in the following order and priority:

- (a) First, to the Class A Limited Partners, pro rata in accordance with the Adjusted Capital Contributions, up to their unpaid Class A Preferred Return;
- (b) Second, to the Class A Limited Partners, pro rata up to their Adjusted Capital Contributions;
- (c) Third, to the Class B Limited Partner, up to its accrued unpaid Class B Preferred Return;
- (d) Fourth, to the Class B Limited Partner, up to its Adjusted Capital Contributions, if any;
- (e) Fifth, to the Class C Limited Partners, pro rata in accordance with their Adjusted Capital Contributions, up to their Adjusted Capital Contributions; and
- (f) Sixth[,] the remaining amount 59% to the Class C Limited Partners, pro rata in accordance with their Adjusted Capital Accounts immediately prior to the distribution provided in clause (e) of this Section 3.4.2, 40% to the Class D Limited Partner and 1% to the General Partner

(NYSCEF Doc. Nos. 168-169, §§ 3.4 [emphasis added]).

"Capital Event" is defined in the November LP Agreements as "the sale, refinancing, or other disposition by the Partnership of all of substantially all of its assets" (*id.* at 3, Definitions). For the avoidance of doubt, Ruben Elberg, as the Class D Limited Partner under the November LP Agreements, would be entitled to 40% distribution of the "remaining amount" of the "Net Proceeds of a Capital Event if the November LP Agreements are the operative agreements.

The LPs' limited partnership agreements contemplated investments in the hotels by interested EB-5 investors. The EB-5 program administered by United States Customs and Immigration Services (USCIS) allows foreign investors who invest at least \$500,000 in projects creating at

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least ten jobs each to obtain a visa to come to and remain in the United States. After the jobs created by such investment are shown to be productive, the visa may be converted to convey permanent residency to its applicant. The foreign EB-5 investors who invested in the hotel projects under the LP Agreements were to be Class A Limited Partners and Mr. Jensen, through his wholly owned entity, Crabapple, would serve as their bundler and representative, holding a Class B Limited Partner interest.

Although the August LP Agreements provided that the LPs would continue in perpetuity (NYSCEF Doc. No. 166, § 1.4; NYSCEF Doc. No. 167, § 1.4), Crabapple was to recruit \$1.5 million of EB-5 investment for Royal HI and \$6 million for Royal CP by September 30, 2012 or the LPs were required to return the capital contributions of the Class A Limited Partners by October 31, 2012 (NYSCEF Doc. No. 166, § 2.13; NYSCEF Doc. No. 167, § 2.13). It is undisputed that sufficient EB-5 money was not raised by September 30, 2012 or returned, to the extent raised, by October 31, 2012 (NYSCEF Doc. No. 187 at 27:15-22, 28:4-5).

Following the failure of this condition in the August LP Agreements, the November LP Agreements were drafted and signed by the Elbergs and sent to Mr. Jensen for signature.

According to Catherine Holmes, the lawyer for the LPs, the parties treated the November LP Agreements as replacement agreements and not amendments of the August LP Agreements because there had been a failure of condition under the August LP Agreements.

Q: To your knowledge, was there ever any written approval provided to you from the general partner of majority and interest of the Class A limited partners, the Class B and the Class C limited partners regarding approval of a decision to amend this agreement?

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A: No. *I believe what happened is that they decided to treat this as never having – having formally gone into effect* because we did not call it an amendment. As you pointed out – well, as you can see in the document that we just read in the November document, we were treating it as a new agreement, not as an amendment.

(NYSCEF Doc. No. 319 at 51:20-25, 52:3-10).

On the record before the court, although it is not clear when Mr. Jensen signed the November LP Agreements (NYSCEF Doc. No. 290 at 71-72) and notwithstanding that Mr. Jensen sent back emails in March 2013 that appear to be an attempt to renegotiate certain terms of the November LP Agreements, Mr. Jensen not only signed the agreements, but also in fact accepted the November LP Agreements when he (x) represented to the United State Government (NYSCEF Doc. No. 324; the December 2012 USCIS Letter) in December of 2012, that the November LP Agreements were the governing agreements in connection with the EB-5 application for Ms. Ruizhen Wang and (y) brought a lawsuit in 2015 based on the November LP Agreements against RORE, RREM, Mr. Elberg, Royal CP and Royal HI, attaching the November LP Agreements as exhibits A and B to the verified complaint in that action (the **Crabapple Litigation**; *Crabapple* Corp. v Royal One Real Estate LLC et al., Index No. 650492/2015; NYSCEF Doc. No. 263, ¶¶ 18, 30 ["Crabapple, each of the Royal HI [or Royal CP] Investors, RORE, and Reuben Elberg are each a party to the Limited Partnership Agreement of Royal HI [or Royal CP] Hotel Holdings, L.P. dated November 30, 2012") where he verified to the court that the November LP Agreements were the operative and controlling partnership agreements for Royal CP and Royal HI (id.)

Mr. Jensen was not the only person who represented to the USCIS that the November LP Agreements were the governing documents. By letter, dated November 25, 2013 (NYSCEF

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Doc. No. 325; **the EB-5 USCIS Letter**), Curt D. Schmidt of the Law Offices of Joe Zheng Hong Zho and Associates, PLLC, in response to a Request for Evidence represented to the USCIS that

the November LP Agreements were, in fact, the operative agreements.

In fact, other than Ms. Pewzner and her revised position since the position that she took in the

Foreclosure Action (defined below) as to whether the November LP Agreements are the

operative agreements (discussed below), who was not a partner or otherwise involved in the

project prior to Jacob Elberg's death, it does not appear that any person regarded the August LP

Agreements as the operative documents.

For completeness, according to the affidavit of Brenda Whitacre (NYSCEF Doc. No. 382), Jacob

Elberg's secretary, no hardcopy of the November LP Agreements were returned to the office

and, while she had access to Jacob Elberg's email account, he did not receive a copy of the

executed November LP Agreements from Mr. Jensen. Significantly, however, the record does

not include a single communication from the Elbergs indicating that if Mr. Jensen failed to

execute the November LP Agreements by a date certain, the offer of the November LP

Agreements terminated. In fact, the record indicates that in response to Mr. Jensen's attempt to

renegotiate the November LP Agreements, the Elbergs indicated that they were not prepared to

renegotiate the terms of the November LP Agreements and that Mr. Jensen could either accept

them or not. By email, dated March 22, 2013, from Ms. Holmes to Mr. Jensen, copying both

Jacob and Ruben Elberg, Ms. Holmes wrote:

Jacob and Ruben do not want to change the terms of the transactions that they have with you and your investors *as previously agreed upon* in the Royal CP and Royal HI

Partnership Agreements.

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If you intend to keep your investors funds in the two projects, Jacob and Ruben ask that you please send the fully signed copies of the two partnership agreements to them.

If your investors do not [] intend to keep their investment funds in the Crowne Plaza project, Jacob and Ruben ask that you please advise them that you desire to receive a return of those funds to your investors. Jacob and Ruben do not wish to take any actions that would harm the investors, and want to receive your direction regarding what should be done with their funds. If the investors want their funds returned, Jacob and Ruben would like to discuss a timeframe for return of the funds.

(NYSCEF Doc. No. 175 [emphasis added]).

Similarly, although she now contests the validity of the November LP Agreements and argues that she should not be judicially estopped from contesting the validity of the November LP Agreements, Ms. Pewzner, previously submitted to the court the November LP Agreements as the operative agreements for the LPs in connection with a foreclosure action in Queens County captioned *New Fund LP v Royal One Real Estate, LLC* (the **Foreclosure Action**; Index No. 709631-2014, NYSCEF Doc. Nos. 91-92, 95-96, *executed and filed on November 9, 2015*). In fact, in connection with the LP Agreements submitted in the Foreclosure Action, Ms. Pewzner attested that RREM and RORE entered into the November LP Agreements (NYSCEF Doc. No. 92, ¶¶ 4-5).

Indeed, all of the signatories of the LPs (Mr. Jensen – the person's whose acceptance of the November LP Agreements is at issue, Jacob Elberg and Ruben Elberg) and including Ms. Pewzner, herself, has at one time or another either agreed to the terms of the November LP Agreements or otherwise taken the position that the November LP Agreements were the operative limited partnership agreements of the LPs.

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However, Ms. Pewzner now argues that her position in the Foreclosure Action resulted solely from Ruben Elberg cutting her off from her father's email account and otherwise not disclosing certain communications (NYSCEF Doc. No. 175) from Mr. Jensen to her father's email account, which she incorrectly argues (as discussed above) indicate that Mr. Jensen rejected the November LP Agreements and terminated the Elbergs' offer to enter into such agreements. To wit, after Jacob Elberg's death in 2013 (i.e., after Mr. Jensen's December 2012 USCIS letter), Ruben Elberg and his sister, Ms. Pewzner, were appointed co-executors of their father's Estate. As noted above, Ms. Pewzner claims that she initially relied on Ruben Elberg to guide her through their father's affairs as Ruben Elberg worked with their father on a daily basis and had knowledge of all of his dealings, but at some point, Ms. Pewzner claims (NYSCEF Doc. No. 161) that she realized that Ruben Elberg was acting to take control of Jacob Elberg's assets for himself and that he misrepresented the state of the LPs' affairs accordingly. Among other things, Ms. Pewzner claims that Ruben Elberg changed the password to Jacob Elberg's email account so that his office secretary could no longer gain access to email communications after his passing. Ms. Pewzner asserts that this was done to prevent her from gaining access to emails showing that, in fact, Mr. Jensen repudiated the November LP Agreements. As discussed above, this is not what they show. What they show is Mr. Jensen's unsuccessful attempt to renegotiate certain terms of the November LP Agreements that he had accepted.

In addition, the record does not support the notion that the email accounts of Jacob Elberg were not available to Ms. Pewzner prior to her submission in the Foreclosure Action. According to Ms. Whitacre, because Jacob Elberg's email account had been hacked, Ms. Whitacre had to change Jacob Elberg's password twice, she provided that changed password to both Ms. Pewzner

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and Ruben Elberg, she never deleted documents from Jacob Elberg's account and to her knowledge Ms. Pewzner never checked Jacob Elberg's email account (NYSCEF Doc. No. 387, ¶ 8). On January 11, 2016, two months after Mr. Pewzner had already submitted her affidavit and the November LP Agreements as the operative agreements in the Foreclosure Action, when Jacob Elberg's email account was hacked again, Ms. Whitacre indicates that she contacted Ruben Elberg and asked him to change the password again and that he did not give the password to her at that time and she did not believe he had given it to anyone else $(id., \P 9)$. In other words, at all times prior to the submission of her affidavit in the Foreclosure Action, where she indicated the November LP Agreements were the operative agreements, the record indicates that Ms. Pewzner had unfettered access to her father Jacob Elberg's email account. In support of her motion, Ms. Pewzner adduces the testimony of Ruben Elberg where he testified that he did not remember whether he had changed the password of Jacob Elberg's email account (NYSCEF Doc. No. 251 at 342:18-20). She does not, however, otherwise adduce any evidence of deletions from Jacob Elberg's email account or a forensic examination of such email account. Prior to the filing of the Note of Issue and her motion for summary judgment, she also did not ask this court for relief arising from this discovery dispute so that the record could be adequately developed, and, in any event, the record is not sufficiently developed to warrant sanctions.

After Jacob Elberg's death, his will was admitted to probate, and on January 16, 2014, the Kings County Surrogate's Court issued letters testamentary to Ms. Pewzner and Ruben Elberg as coexecutors for the Estate (Estate of Elberg, File No. 46-2014; the **Surrogate Court Action**). At least as of August 28, 2014, the relationship of Ms. Pewzner and Ruben Elberg turned sour and Ms. Pewzner moved by order to show cause in the Surrogate's Court for a declaration, inter alia,

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that the Estate of Jacob Elberg be declared the sole member and owner of RREM and RORE and

to require Ruben Elberg to deliver such documentation to Ms. Pewsner as may be required to

confirm and establish that the Estate was the sole member and owner of such entities (NYSCEF

Doc. 88). Ruben Elberg moved to dismiss Ms. Pewzner's claims. The Surrogate's Court denied

the motion and granted Ms. Pewzner's relief to the extent of preliminarily enjoining distribution

of the assets in question (164 AD3d 497 [2d Dept 2018] [modifying Surrogate's Court order only

insofar as it did not require Ms. Pewzner to post an undertaking).

The court notes two other agreements between the parties. First, as evidenced by emails, dated

December 31, 2012, and January 1 and 3, 2013 (NYSCEF Doc. 170), at some point Mr. Jensen

agreed to provide \$2 million toward the purchase of the hotel lots (the Loan). Ms. Pewzner

claims this was a stand-alone loan transaction and that no other agreement, including the

November LP Agreements, were ever fully executed by the parties. Ruben Elberg, on the other

hand, argues that this is further evidence of the parties' acknowledgment that the November LP

Agreements were the operative documents for the LPs and Mr. Jensen's intent to perform.

Second, there came a time subsequent to Jacob Elberg's death and following the filing of this

lawsuit where the parties did enter into an Agreement and Plan of Merger dated as of August 25,

2016 (NYSCEF Doc. No. 241; the Merger Agreement) by and among Royal One Real Estate II,

LLC and Royal CP, Royal HI, Crabapple, RORE, Royal LIC, RREM and NYC Fund, L.P. and

NYC Metro Regional Center, LLC and Westlead Capital, which reflects that there was a dispute

as to whether the August LP Agreements or the November LP Agreements were the governing

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documents and, as such, whether Ruben Elberg was a Class D Limited Partner (NYSCEF Doc. No. 242, Recitals at 2, §§ 2.1, 2.3, 3.2[a]).

I. Ms. Pewzner's Motion to Strike the Complaint and/or for Summary Judgment is Denied

To prevail on a motion for sanctions for spoliation of evidence, the moving party must establish:

[1] that the party having control over the evidence possessed an obligation to preserve it at the time of its destruction, [2] that the evidence was destroyed with a "culpable state of mind," and [3] "that the destroyed evidence was relevant to the party's claim or defense such that the trier of fact could find that the evidence would support that claim or defense"

(Pegasus Aviation I, Inc. v Varig Logistica S.A., 26 NY3d 543, 547 [2015], quoting VOOM HD Holdings LLC v EchoStar Satellite LLC, 93 AD3d 33, 45 [1st Dept 2012]). A "culpable state of mind" includes ordinary negligence for purposes of a motion for spoliation sanctions (VOOM, 93 AD3d at 45). Trial courts in the exercise of discretion may impose sanctions to the affected party including (i) preclusion of evidence favorable to the spoliating party, (ii) awarding costs associated with obtaining replacement evidence, or (iii) employing an adverse inference instruction at trial (id. at 551, citing CPLR § 3126 ["If any party...refuses to obey an order for disclosure or willfully fails to disclose information which the court finds ought to have been disclosed...the court may make such orders with regard to the failure or refusal as are just"]).

Spoliation sanctions are not appropriate in this case on the record before the court. Ms. Pewzner fails to identify any destruction of evidence that occurred or to show that she otherwise did not have access to the email account for the years of litigation that predated this lawsuit including prior to her submissions in the Foreclosure Action, which she now seeks to disavow and during the Surrogate Court Action. To be sure, Ruben Elberg's recollection as to whether he changed

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the password to his father's email account raises concerns, but the record is simply not developed to support the notion that Ms. Pewzner did not otherwise have the universe of information available to her. No forensic analysis of Jacob Elberg's email account was requested or performed. Nor have any emails or documents been produced that she otherwise did not have available to her. Thus, the branch of the motion seeking to have the complaint struck is denied.

Ms. Pewzner is also not entitled to summary judgment. Summary judgment should be granted when the movant presents evidentiary proof in admissible form that there are no triable issues of material fact (Alvarez v Prospect Hosp., 68 NY2d 320, 324 [1986]). Contrary to Ms. Pewzner's position, there was no repudiation and rejection of the November LP Agreements by Mr. Jensen. As discussed above, Mr. Jensen's emails reflect nothing more than an attempt to renegotiate terms. Although it may not be clear when he actually signed the November LP Agreements, Mr. Jensen accepted the agreements when he performed under the November LP Agreements by (x) representing to the United States Government in the December 2012 USCIS Letter that the November LP Agreements were the operative agreements when he applied for the EB-5 visa for Ms. Ruizhen Wang and (y) when he represented that the November LP Agreements were the operative agreements in the Crabapple Litigation. It is of no moment that he testified that often EB-5 applications are presented without fully executed agreements or that he can't recall when he signed the November LP Agreements. The fact is that although he may have tried to renegotiate the November LP Agreements, he executed them, no one ever rescinded the offer to enter such agreements and the offer to enter into such November LP Agreements did not have a sunset provision. Equally significant, as it relates to the dispute between the parties, he does not object to the November LP Agreements and it is beyond cavil that the other signatories to those

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agreements (i.e., Jacob Elberg and Ruben Elberg) executed them. Indeed, it was in all of their economic interests (including, ultimately, Ms. Pewzner's as the successor to Jacob Elberg's position) to enter into the November LP Agreements as the EB-5 fundraising for the Class A Limited Partners was not achieved in accordance with the August LP Agreements.

In addition, Ms. Pewzner's argument that to the extent that Mr. Jensen's conduct can be viewed as acceptance by performance, it should be viewed as acceptance by performance of the Loan only and not the November LP Agreements, fails. The \$2 million loan to the project for the purchase of the hold-out lots for the hotels, does not in any way negate his acceptance of the November LP Agreements by signing the same and by representing that they were the operative documents to the USCIS in the December 2012 USCIS Letter and by subsequently bringing the Crabapple Litigation.

Moreover, Ms. Pewzner cannot so easily whisk away the submissions that she made in the Foreclosure Action. The doctrine of "judicial estoppel," also known as the doctrine of inconsistent positions, precludes a party who assumed a certain position in a prior litigation and secured a judgment in its favor from assuming a contrary position in another action simply because their interest may have changed (*Baje Realty Corp. v Cutler*, 32 AD3d 307 [1st Dept 2006]). At the time of her submissions to the court in that action, according to Ms. Whitacre, Ms. Pewzner had access to Jacob Elberg's email account as she had been provided the password by Ms. Whitacre (and Ruben Elberg had not yet been asked to change the password and had not changed the password to address the hacking issues raised by Ms. Whitacre). Thus, the record suggests that Ms. Pewzner's position in the Foreclosure Action resulted simply from her failure

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to do her own due diligence (i.e., to the extent that she suggests she might have submitted the August LP Agreements and not the November LP Agreements). In any event, as discussed above, the emails in Jacob Elberg's email account only suggest Mr. Jensen's attempt to renegotiate terms of the November LP Agreements – and are not a repudiation and rejection of the same, having previously accepted them.

Finally, Ms. Pewzner's argument that the November LP Agreements are not effective because Section 12.3 of the August LP Agreements (NYSCEF Doc. Nos. 166-167, §12.3) required written approval of the Class A Limited Partners, which she argues was not obtained, also fails. As discussed above, and per Ms. Holmes' testimony, because of the failure to raise the EB-5 funds in accordance with the terms of the August LP Agreements, all of the parties involved in the Royal CP and the Royal HI, including (i) the Elbergs, (ii) Mr. Jensen (who accepted the November LP Agreement by both [x] representing that the November LP Agreements were the operative agreements to USCIS and [y] bringing the Crabapple Lawsuit based on the November LP Agreement), (iii) Mr. Schmidt who sent the EB-5 USCIS Letter representing to USCIS the November LP Agreements as the operative documents (and including the November LP Agreements and the subscription agreements as exhibits to such EB-5 USCIS Letter) and (iv) the Class A Limited Partners by virtue of their subscription agreements (NYSCEF Doc. No. 326) referring to such November LP Agreements (i.e., and not the August LP Agreements) treated the November LP Agreements as the operative agreements.

II. Ruben Elberg's Motion for Summary Judgment is Granted

653373/2016 ELBERG, RUBEN vs. CRABAPPLE CORP. Motion No. 006 007

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For the reasons set forth above, inasmuch as the November LP Agreements are the governing

agreements, Ruben Elberg's motion for summary judgment seeking declaration that (i) the

November LP Agreements are the governing agreements for the LPs must be granted, and (ii) as

a Class D Limited Partner, he is entitled to receive 40% of the Net Proceeds from a Capital Event

or dissolution from Royal CP Royal HI consistent with Article 3.4 of the November LP

Agreements, is granted.

Accordingly, it is

ORDERED that the defendant's motion (seq. no. 006) for sanctions and summary judgment is

denied in its entirety, and it is further

ORDERED that the plaintiff's motion (seq. no. 007) for summary judgment is granted and it is

further,

ADJUDGED and DECLARED that the Limited Partnership Agreements, dated November 30,

2012 are valid and govern the affairs of Royal CP Hotel Holdings, LP and Royal HI Hotel

Holdings, LP; and it is further

ADJUDGED and DECLARED that under the Limited Partnership Agreements, dated November

30, 2012, that Ruben Elberg is a Class D Limited Partner of Royal CP Hotel Holdings, LP and

Royal HI Hotel Holdings, LP and as such is entitled to receive 40% of the Net Proceeds from a

Capital Event or dissolution from Royal CP Hotel Holdings, LP and Royal HI Hotel Holdings,

LP consistent with Article 3.4 of the November LP Agreements.

653373/2016 ELBERG, RUBEN vs. CRABAPPLE CORP. Motion No. 006 007

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INDEX NO. 653373/2016

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 $653373/2016\;$ ELBERG, RUBEN vs. CRABAPPLE CORP. Motion No. $\,006\;007\;$

Schubils C

Raben Manny Judgment

(See Attached)

FILED: NEW YORK COUNTY CLERK 10/03/2022 12:55 PM

NYSCEF DOC. NO. 94

INDEX NO. 657021/2022

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Page Lef 18:

653373/2016, NYSCRF Duc. No. 270) (vi) an Order to Show Cause (the Order to Show Cause)

Distriction and Order dated March 23, 2021 (the First Supplemental Order; Index No.

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Index No. 633373/2016, NYSCEE One. No. 427 at 2-3), cheese July 25, 2022, exchang (a) a declaration that Tarrans Pewster was in contempt for violating post-judgment subpostors issued by the glaintiff, (ii) assertions against Me. Pewster and (a) as order directing Me. Percent to comply with part-judgment subpostors and requiring her to transfer all grans compensation received following the Capital Event and dissolution of the LPs to an account designated by the Court, where the fands would be held until the Court codered distribution constitutes with Article 3.4 of the November LP Agreements which the Court declined to sign solely until this Court fasced this footnoonly Judgment in Linu of Complaint Motion (and which is being signed simultaneously learnest in Linu at Court (the Kings County Action) captioned Tamara Penner v Levi Harter et al., Index No. 519093/2022, (viii) a Supplemental Order dated July 29, 2022 (the Second Supplemental Order; Index No. 653373/2016, NYSCEE Duc. No. 430), and (iv) as action capitalized Letter of Jacob Ethery, File No. 2023-211/C-L (the Secregate Action) proding in the Samugate's Court (Kelly, 1.), Quarter County.

In the 2016 Action, Mr. Elberg assemed a single cause of action for a declaratory judgment that
the November LP Agreements are valid and that Mr. Elberg is therefore entitled to 40% of the
Not Propertie from a Capital Event or dissolution from Royal CP and Royal HL. The Court
granted Mr. Elberg's roution for summary judgment on its sole cause of action for a declaratory
judgment in the Prior Decision:

ADJUDGED and DECLARED that the Limited Parasectisp Agreements, dated Neverther 30, 2012 are valid and govern the affilies of Royal CP Hotel Holdings, LP and Royal RI Hotel Holdings, LP, and R is further

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¹ The Surregion Aption involves the Econs of South Sthery. It was required from Elega Chiary to Queene Crostly parameter Automateurs Transfer Crose #110, Janual December 3, 2011 (see 2016 Autom, MYSCSF Dec. No. 1966).

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ADJUDGED and DECLARED that under the Limited Partnership Agreements, dated Normalise 30, 2012, Ruless Elberg is a Class D Limited Partner of Reyel CP Hotel Holdings, LP and Buysl HI Hotel Holdings, LP and at such is extinul to receive 40% of the Net Proceeds from a Capital Event or dissolution from Buysl CP Hotel Holdings, LP and Royal Bil Hotel Holdings, LP consistent with Article 3.4 of the November LP Agreements.

Disk, at 165.

On March 3, 2021 (2016 Action, NYSCEF Doc. No. 352) and receive this Coort issued the Prior Decisions dockning that the Nevember LP Agreements are the governing agreements and that Mr. Etherg was exhibited in receive 60% of the Net Proceeds of a Capital Event, Mr. Etherg reache a demand the distributions pursuant Paragraph 3.2.4 of November LP Agreements because a Capital Event had occurred. On the smooth before the court, Mr. Peremot did not respond.

Mr. Elling then moved by order to above usual to require that the relevant funds be moved into an assurant designated by the Court. Mr. Powerer appeared the rection. In her opposition, numericalizeding the Appellant Division LLC Desiston, Mr. Powerer falsely argued that the issue of comunity of the relevant LLCs had never been before the Appellant Division. It had. In response, this Court issued its First Supplemental Order quoting the Appellant Division LLC Division:

Elberg was not reveyed as the sole "romaging member" of the LLCs. The record descentitates that he was a 40% scientity member, not a managing member with the power to not undatedly on the LLCs betalf. The relevant agreement contained to provision regarding the seconsists of transagreement of the LLCs in the overs of the durth of Jacob, the majority member. Thus, Jacob's convulling interest as the LLCs persed to his estate upon his death, and Elling and Pewanas, the co-enscators of the sature, had the sufficient to set as co-managers of the LLCs (Limited Linbillay Company Lew [LLC] § 608; are also few Prospect v Studward, 365 AD2d 588, 589 [2d Dept 2003]); LLC § 468 provides that the executor of a decimand member 'may exercise all of the member's rights for the purpose of sattling his or her estate."

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(2018 Action, NYSCEF Doc. No. 370, citing 3.53 AD3d 434 [1st Dept 2017] [triphasis in original]).

The Appellate Division recently reaffirmed this understanding when it reversed the court
(Hamos, I.)'s order which had removed Mr. Eiberg so a co-manager of the LPs and LLCs and
indicated that in fact the issue had been squarely presented in a prior action:

The sense decided by the motion court — namely, pleasettl's fitness to co-minage the LLC and LP defendants — was squarely presented in a prior author (see Crobappile Corp. v. Elberg, 153 AD2d 434 [1st Dept 2017]), which was voluntarily discontinued with prejudice. The stepsizions of discontinuese did not present Pewerser's right to mise this issue. Not was the issue raised in this case as here Elberg simply seeks a declaration that certain attended partnership agreements are valid.

(2016 Action, NYBCEF Doc. No. 397, at 2; Ething a Gradupple Corp., 201 ADRES46, 546 [List Dept 2022] [compliants added]):

Submipsently, Mr. Ething again reads outposts for distributions (NYSCEF Doc. Nov. 401-456) participant to the November LP Agreements and alternately served peer judgment ashpermin as to the missay he is count gurnant to the November LP Agreements. In response (and instead of retorning to this Court which issued the Print Decision), Ms. Pewener filed the Kings Courty Action freedomly arguing that service of the subposts was an about of process. When Me. Pewerser continued to fail to respond to the subposts notwithstanding (i) the Appellote Division LLC Decision, (ii) the Print Decision, and (iii) the First Supplemental Order, Mr. Ething brought the instant action and the Order to Show Course in the 2018 Action (2016 Action, NYSCEF Doc. No. 427).

SETTLE TOTAL TELESIANS, MURREN vs. PERSONER, TRAMANA. MARINE No. 181 100 Property of 188

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At the approximate for the temporary restraining order in the Order to Show Cause, for the reasons set forth in the Second Supplemental Order (and when such rection was pending), it became clear that are flow supplemental order was recessory:

(T)he Court previously adjudged and declared that the November LP Agreements are valid and govern the affairs of the LPs. Thus, the plaintiff is entitled to a further declaration that the total consideration realized from the August 25, 2016 marget should be distributed to accombance with section 3.4.2 of the November LP Agreements.

Section 3.4.2 of the Neventher LP Agroements provide:

The Nat Proceeds from a Capital Event and/or a distribution resulting from the dissolution of the Parmership shall be distributed within one handred twenty (120) days of such Capital Event or dissolution of the Partnership, in the following order and priority:

- (x) Frest, to the Class A Lincold Parisons, pro-rata in autordance with their Adjusted Capital Contributions, up to their orquid Class A Professed Borners;
- (b) Second, to the Class A Lincold Partners, pre-18th up to their Adjusted Capital Contributions;
- (c) Third, to the Clim B Limited Partner, up to its accrued suguid Class B Preferred Return;
- (d) Fourth, to the Class B Limited Partner, up to its Adjusted Capital Contributions, if stry.
- (e) Fifth, to the Class C Limited Partners, pro rate in accordance with their Adjusted Capital Contributions, up to their Adjusted Capital Contributions; and (f) Scott the remaining amount 59% to the Class C Limited Partners, pro-thes in accordance with their Adjusted Capital Accounts interediately prior to the distribution provided to classes (c) of this Section 3.4.2, 40% to the Class D Limited Partner and 1% to the General Partner.

(NYSCEF Doc. Nov. 270 and 271, § 3.4.2).

Following the innance of the Prior Decision and the First Supplemental Order, by letter (NYSCEF Doc. No. 352), dated March 3, 2021, from Robert Abratis to Charles Lieberman, Mr. Abraers demanded distribution of Mr. Utburg's share of the Net Proceeds. This amount recosing uspaid.

As each, the plaint(IT is certified to this Additional Supplemental Order and clarification that the declaration that the plaint(IT is also a Class D Limited Parent securatedly means that the total certification of \$55,777,210 should be allocated.

(1) \$11,800,000 to the Class C Partners for their Capital Contributions to Royal HI and Royal CP, (2) the revenining net proceeds of \$23,977,210.00 should be

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distributed SWS to the Class C Partners (i.e., \$14,146,553.90 to Reyal One Real. Estate LLC [ROBE] and Royal Real Estate Management [RRENE]), 40% to the Class D partner (i.e., \$9,590,884.00 to the plaintiff) and I'm to the General Partner (i.e., \$239,772.10), and (3) in addition to his Class D interest of \$9,590,884.00, the plaintiff is extribut to be paid 40% of the \$11,890,00 (i.e., \$4,729,000), plus 40% of \$14,146,553.90 (i.e., \$5,658,621.56) or a total payment to the plaintiff of \$18,969,505.56

(2016 Action, NYSCEF Doc. No. 450, at 5-6).

As discussed in the Second Supplemental Order, the amount of the total consideration milject to distribution pursuant to the terms of the November LP Agreements was got baseled from Mr. Etherg. This amount comes from Mr. Pewerer. Indust, har atterney and out the Notice of Special Menting and Proxy Statement (2016 Action, NYSCEF Duc. No. 354) with this amount in consection with the August 23, 2016 margin. Having done this, she can not now discound for several sent to the pursues and argue that an issue of fact exists or that Mr. Etherg is the serve of due information. It is simply another false attentioned by Ms. Powerer.

Iteratics as the Appellate Division has already determined that Mr. Ellierg in a 40% owner of Boyal CP Blood Bioldings, LP and Bayal BI Boud Bioldings, LP and that the Nevember LP Agreements govern, and so discussed in the Second Supplemental Order, the Nevember LP Agreements make clear the wasteful of distribution of the proceeds, there simply are no insure of fact as to (i) the amount of the processes, (ii) how the processes should be distributed including how much about have been distributed to Mr. Elberg pursuant to the seress of the November LP Agreements, (iii) that Mr. Elberg has made a demonst for his share of the proceeds and (iv) that they have not been paid. Thus, summary judgment in lies of complete most be granted.

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Shelver Etherg's matter (Miss. Sing. No. 052) to transfer the case to Quarte County, Surregates Court, or, in the oftensative, to meny-see in this action is deesed. This tremperent attempt to fragate the season in front of this Court in a different department fails. The 2016 Autum involves the partmentip and it is the partnership agreements which govern the distribution of proceeds pursuant to these agreements.

It is hereby ORDEXED that Mr. Elberg's matters for summary judgment in New of complaint in granced, and it is further

ORDIDEED that Shoken Ellierg's matter to transfer the case is denied, and it is further

CHESCHO that a copy of this Decision and Order shall be filed in the 2018 Action and shall be brought to the streeties of the court (Kelly, J.) to the Surrogene Action; and it is further.

DELICATED, ADJUDGED and DECREED that the Plaintiff, RUBEN ELBERG, is granted judgment against the BOYAL CP HOTEL HOLDONGS LP and all its manuscent sphiliding that the Limited Partnership Agreement for BOYAL CP HOTEL HOLDONGS LP, done November 30, 2012 (NYSCEF Doc. No. 235), is valid and blocking on BOYAL CP HOTEL HOLDONGS LP and all its micromers including TAMARA PEWZNER, individually, as co-executor and co-traine of the Essate of Justin Etherg, and as on-Manager of BOYAL ONE BEAL ESTATE, LLC, BOYAL BEAL ESTATE MANAGEMENT LLC, BOYAL LIC REAL ESTATE

MANAGEMENT, LLC, and it is further

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ORDERED, ADMIDGED and DECREED that the Plaintiff, NUMBN ELBERG, is granted hidgment against ROYAL HEHOTEL HOLDINGS LF and all its successors upholding that the Limited Partnership Agreement for BOYAL HI HOTEL HOLDINGS LP, dated November 36. 2012 (NYSCEF Doc. No. 236), is valid and trading as BOYAL HI HOTEL HOLDINGS LP and all its successors including TAMARA PEWINER, individually, as co-executor and cotrustee of the Estate of Jacob Elberg, and as co-Manager of ROYAL ONE REAL ESTATE, LLC, ROYAL MEAL ESTATE MANAGEMENT LLC, ROYAL LIC BEAL ESTATE. MANAGEMENT, LLC; and it is further

ORDERED, ADRODGED and DECREED that the Flatmett, RUBEN ELBERG, is granted Judgment against ROYAL ONE REAL ESTATE, LLC and all its successors upbolding that the operating agreement, dated March 2, 2005 (NYSCEF Dec. No. 232); is valid and binding on RESYAL ONE REAL ESTATE, LLC and all its auccessors including TAMARA PEWENER. individually, as co-suscepts and on-trains of the fature of Jacob Elberg, and as co-Mintager of ROYAL ONE BEAL ESTATE, LLC, BOYAL REAL ESTATE MANAGEMENT LLC... ROYAL LIC BEAL ESTATE MANAGEMENT, LLC; and ORDERED; ADJUDGED and DECREED than the Plaintiff, BUSSEN ELBERG, is granted judgment against ROYAL REAL. ESTATE MANAGEMENT, LLC and all its nucleasure upholding that the operating agreement. dained hang 13, 2001 (NYSCEF Disc. No. 233), is valid and binding on ROVAL HEAL-ESTATE MANAGEMENT, LLC and all its measurers including TAMARA PEWZNER, individually, as es-executor and co-marine of the Estate of Jacob Efferg, and as co-Monager of ROYAL ONE

REPORTED BLACKS, PLANS H. H. PEYCHER, TAKARA Modien Rev. 387 988.

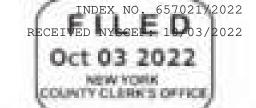
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REAL ESTATE, LLC, ROYAL BEAL ESTATE MANAGEMENT LLC, ROYAL LIC BEAL ESTATE MANAGEMENT, LLC, and it is further

Α

OKDERED, ADJUDGED and DECREED that the Plaintiff, KUBEN ELBERG, is granted
B
Judgment against the Defendant, TAMARA PEWZNER, individually, as an executor and ontrustee of the Estate of Jacob Elberg, and as to-Manager of ROYAL ONE REAL ESTATE,
LLC, ROYAL REAL ESTATE MANAGEMENT LLC, ROYAL LIC REAL ESTATE
MANAGEMENT, LLC, in the amount of \$19,969,505.56, with interest thorough of \$10,980,492.51,

from the 23th day of August, 20th, along with motion about of \$45.00, and abstraction at his of \$237.50, for a total of \$30,950,235.57, be taxed by the Clark of this Court upon the presentation of the proper papers, and that the Plaintell love execution therefor, and it is further.

ELBERG, is granted judgment signified the Defenders, TAMARA PEWZNER, individually, as an executive and co-trainer of the Entire of facilities, TAMARA PEWZNER, individually, as the executive and co-trainer of the Entire of facilities, and as so-Manager of ROYAL ONE HEAL ESTATE, LLC, BOYAL BEAL ESTATE MANAGEMENT LLC, ROYAL LIC REAL ESTATE MANAGEMENT LLC, ROYAL LIC REAL ESTATE MANAGEMENT, LLC, in the amount of \$4,208,728.28 with interest thereon at 9% of \$644,454.31

per assum from the 20th day of January, 7021, and distributions as to be taxed by the Clerk of \$6.223.50, for a botal of \$4.253,465.00

of \$282.50, for a total of \$4,853,465.09,

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B 23 Waverly Pl., Lawrence, NY 11559

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INDEX NO. 657021/2022

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Berlin Charles S. R. Green, etc. Index No. ARTHRIVERS DEPENDANCEMENT OF THE STATE OF YORK. Street Add many Appeals allowed the debuted in the CHARGE OF THE WORK YORK a parky to the seriou, it was to place of up and retries SUPPLY STREET, SAME AND ADDRESS OF SAME SHOWING AND ADDRESS OF SAME SHOWING STREET, ST 123 H Account make to did to proposed progress as ĸ. ì BOTTOL REQUIRES LAL. i 1 ì steem, also orbined. TAMARA PENERSE, automoby, is exempted and so breater i of the Calors of Joseff Elbarg, and to Co-Manager of MERICAL 1989 Nov. 201 LTE, 1227, 807210, 6550, 6550, 617-679 being his broken description ٠ ment on the state of the state of Ì MANUACEMENT CLIC MINERAL NO MENA SEPARE . at . In few without the reg y mercely within some MANAGEMENT AND ì distant, participarty troup disput extension. to a service of a finite drop of the street of the street all made marketed in a closed analysis directed to help ŧ pleasanging, in the office tonio stray in box. X. der Rode Topolische der der stelle der sein sog eine Allende b deposit to better our little. and the decimal of the security in 1964 private or trights 100 Self-demonstration or the 553 11 Assort New York; Essent H. 1977 -field this sense beauty and such the depend over A place of the corner, a print PL (both of left too stroke Bert Mill And if Builded world in Arbon Immed Houseshire ARRANGEMENT STREET, LAT . Account to believe and DESIGNATION AND ADDRESS OF THE PARTY. No discovery a new load, or hand mercount in a sendorth pleasely exhibited straiger to a pay official offices do-Exercise of the control or annual company of deplications; progenition professors; ploty and plannings of the Since bring Sharks from your two dates. . . (From to 94949-191) Mark . ж The state of the s 111 FILED AND DOCKETED Oct 03 2022 12:27 8 N.Y. CO. CLICS OFFICE

Schedule D

Description of Capital One Lours and Medallion Collateral

Borrawer	Original Principal Amount	Medallien No.
BRACHA CAB CORP.	\$1,210,000	21.35, 21.36
BRACHA CAB-CORP.	\$230,000	21.35, 21.36
DABRI TRANS CORP.	\$1,210,000	5210, 5211
DABBUTHANS CORP.	\$250,000	5010, 5011
DOVHER CAB CORP.	\$1,210,000	2171, 2172
DOVBER CAB CORP.	\$250,000	2171, 2172
FIT TAXI CORP.	\$1,525,000	3M78, 3M79, 3M86
JACKHEL CAB CORP.	\$1,210,000	8N642, 8N643
JACKHEL CAR CORP.	\$2.98/(60)	8M42, 8M43
LECHAIM CAB CORP.	\$1,219,000	1666, 1667
MERAB CAB CORP	\$1,219,000	7722, 7125
N. Y. EMERGY TAXI CORP.	\$1,210,000	2Y38, 2Y43
N.Y. CANTEEN TAXI CORP.	\$1,210,000	2Y37, 2Y38
N.Y. GENESIS TAXI CORP.	\$1,230,000	2744, 2745
N.Y. STANCE TAXI CORP.	\$1,210,000	3P15, 3P16
NY TINT TAXI CORP.	\$1,210,000	85646, 85667
SOMYASH TAXLCORP.	\$1,210,000	4018, 4019
TAMAR CAB CORP.	\$1,210,000	11100, 11178
JAJUH TRANS CORP.	\$1,210,000,00	9367, 9368
MURILL TRASSIT INC.	\$1,190,000.00	5095, 5096
SPINDLE CAB CORP.	\$1,190,001.00	1844, 1847

Schofish J.

Capital One Settlement Agreement

(See Altsohed)

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (this "Agruented") is entroot into at of April , 2024 (the "Eastration Data"), by used among Brachs Cab Corp., Davier Cab Corp., Tamar Cab Carp., NY Ocurain Taxi Carp., Dubri Tram Curp., Merub Cab Corp., Fit Taxi Corp., Somyush: Tank Corp., NY Tier Taxi Corp., NY Stance Taxi Corp., NY Contron Taxi Corp., NY Energy Taxi Corp., Jackhol Cab Corp., Lechaim Cab Corp., and Jarub Traus. Corp (collectively, the "Delmor Bornovers"): Marill Transit Inc. and Spindle Cab Corp. (tegerbor, the "bion-Debtor Bornovers") and, with the Debray Borrowers, the "Borrowers"s. Tamar Prevence ("Tamara") and Ruben Elberg. ("Rober"), personally and as boneficiary of the listate of Jacob Elberg; and Tamara and Ruber in their cornetties as Co-Executors of the Eatate of Jacob Elberg ("Co-Executors"); Farra Elberg ("Euro"), personally, Sholom (Sam) Elborg ("Sum"), personally and as a beneficiary of the flatate of Jacob Elberg: Michael Elberg ("Michael"), personally and as a beneficiary of the Estate of Jacob Elberg: JEB Management Corp. ("JEBT); SHEFA Funding LLC ("SHEFA"); and the Intate of Jacob Elberg Institutively with the Borrowers, Tarriers, Rubos, Sam, Michael, Euroa, IEB, and SEIEFA, the "Elberg Parties"); and Capital One Taol Modellion Finance, a trude name of Capital One Sanipment Finance Corp. ("Capital One"). Capital One and the Elberg Fartes may collectively be referred to berein as the "Farties" and individually, a "Party".

MECTTALS

WHEREAS, the flurrowers unliestively from 25 liceroses to operate taxicals within the City of New York (rath a "Medallism"; onliestively, the "Medallism"), which are recent specifically obsettified on Schoolsky A benetic;

WHEREAS, on an about August 1, 2012, Capital One made a loss to each of the Borrowers in the principal amounts set forth on Schedule A hereto and thereafter made certain additional losses to consist Borrowers as more fully identified on Schedule Δ (rach a "Loga"); collectively, the "Loga");

WHEREAS, such of the Bornovers granted to Capital One socurity interests in the Modalizons, all proceeds thereof, and other personal property owned by such Bornover foodlestively, the "Capital One Lietus" se securits for the Loun(s) in it;

WHEREAS, Incob Efforg and JEB government all Louis, and Roben Efforg government the Louis to James Trans. Corp (ownest 50% by Buben) and the Non-Defror Bermwers (the "Eishen Efforg Bermmit Quarantees").

WHEREAS, Justo Hilberg died on Dummber 20, 2013;

WHEREAS, at the time of his death, Javob Elburg was married to Hama, and they had lines obtained, Bahen, Tamara, Sam, and Michael;

WHEREAS, pursuant to the torms of Jacob Efforg's will, Tumors and Robert wein mentioned perfinentees of the finise of Jacob Efforg and to-Trustmas of a trust w/w/o Jacob Efforg, and received Letters Testamentary and Letters of Trustmaship pursuant to a Discret granting Probate, dated Jacoby 16, 2014, which were insent by the Norrogette's Court of the finite of New York, County of Kingy (the "Kings Surmants"). Court's

- WHEREAS, the equity interests of therrowers beneficially owned by Jucob Ulberg at the time of his death (including 30% of Jarub Traca. Corp.) were stansferred by the Emits of Jacob Elberg to firms in early 2014;
- WHEREAS, the Loans mattered on January 1, 2015, upon which date all amounts durunder the terms of each Loan (inclusive of all outstanding principal, innexest, costs, and any other amounts and obligations due and owing under the Loans at any time, collectively, the "Loan Obligations") become immediately due and psyable;
- WHEREAS, each of the Horrowest has failed to repay the Loan to Loans made to it is full;
- WHEREAS, on or about June 9, 2015, Capital One presented a claim against the finiste of Jacob Elberg to the Co-Esconters in respect of Jacob Elberg's Eability as a personal guarantee of the Leaves in the amount of \$23,140,074,86 (the "Estate Claim").
- WILEREAS, on July 27, 2015, Capital One commenced an action against JUH and Rabon in the Supreme Court of New York, Sefficit Courty, hearing index number 608014/2015 (the "JUH Action"):
- WHEREAN, on Nevember 4, 2015, Capital One commenced an action against the Co-Executors, in their capacities as executors of the Einste of Jacob Elberg, in the Supreme Court of New York, Suffolk County, bearing index mamber 611751/2013 (the "Eigenfor Action"):
- WHEREAS, Capital Ose emered into a forbourance agreement dated February 1, 2016, with the Debter Bussewers, Testure, as Escenter of the Estate of Sectle Etherg, and JEB (the Testurest Agreement Agreement).
- WHEREAS, on April 27, 2016, Capital One voluntarily discontinued the Executor Action in its entirety without projection:
- WHEREAS, on April 27, 2016, Capital One voluntarily discontinued the JEB Action raisely against JEB without prejudice;
- WHEREAK, on August 1, 2016, the Forbeatsture Agreement expired by its toron, and the Loan Obligations remain outstanding:
- WHEREAS, on November 22, 2016, a judgment was covered against Robes, individually, in the JUB Action in favor of Capital One in the amount of \$4,399,541.72 (the "Bulum Elberg Judamers").
- WHEREAS, stress the Roben Elberg Judgment was entered, post-judgment interest has been account therein at the statutory rate of 9% per assume.
- WHEREAS, Ruben took an appeal of the Ruben lifting Judgment externit against him in the JEB Action to the Appellate Division, Second Department, which appeal was deried by order entered on Musch 31, 2021.

WHEREAS, sec or about February 6, 2017, to enforce the Station littleng Judgment, Capital One served a routesining notice on the firster of Jacob Elberg;

WHEREAS, on se about May 9, 2017, in unfinue the Ruben Elberg Judgment, Capital Our install an execution against property with notice to gaminine (the "Execution"), and the ShellE of Nazum County "Sevied on" the Execution (the "Lave") by serving the Execution on Tamara, in her capacity as a ser-executor of the forute of Jacob Elberg and fiduciary for certain molities related to the Eistate of Jacob Elberg:

WHEREAS, the Lovy was extended by a court order dated July 21, 2012 and extered in the JEB Actions:

WHEREAS, on the dates specified on <u>Schoolsh</u> C better (each a "<u>Petition</u> Date"), the Debter Beromets such communical a case under title 11 of chapter 11 of the United States Code (as arrended, the "<u>Backgaptey Code</u>") before the United States Bankraptey Court, Fasters District of New York (the "<u>Backgaptey Code</u>"), which cases are juintly administreed under Case No. 17-46613-nid (the "Chapter L1 Cases").

WHEREAS, on or about May 3, 2018, Capital Oru Illint's proof of claim in such Debror Borrever's Chapter 11 Case for the amounts due and roving scales the Learns to the Debtor Borrewers as of the applicable Petition Date (collectively, the "Bankraptey Claims"), which Bankraptey Claims are secured claims (in whole or part) and apprepand \$23,090,309.51;

WHEREAS, since the applicable Petition Date, default one interest and other amounts have been accruing with respect to the Bankruptcy Claims and continue to accrue;

WHEREAS, on or about May 4, 2018, Buben filed a proof of claim for an unsucond claim in the Chapter 11 Cases for the assesses due and owing to ben as of the applicable Petition Date, which tonical \$4,987,513.33;

WHEREAS, by order dated June 30, 2019, the Backruptcy Court approved and authorized the Deliter Biorrowers to make into and commentate a global settlement agreement among contain of the Parties bereto and others; excluding, however, the New-Debter Borrowers, Jacob Trans. Curp, and Bathen (the "Price Settlement"):

WHEREAS, on July 17, 2019, Turners filed a perman with the Kingx Surrogate's Court parament to New York Surrogate Court Procedure Act ("SCPA") # 2102(6) for approved of the Prior Settlement, which was transferred to Surrogate's Court, Queens Courty ("Queens Surrogate's Court") on Documber 3, 2021 by Administrative Order, where it remains pending:

WHEREAS, on August 24, 2022, Ration filed an action against Capital One and others in the Supreme Court of New York, New York County, bearing index number 653076/2022 (the "Found Action").

WHEREAS, on Ociober 1, 2022, Capital Our uncommand a special proconding pursuant to CPLR § 5227 against Tamura, in her personal and representative capacities, and Robert, solely in his representative capacities, in the Supreme Court of New York, Names Courty, bearing index number 613186/2022 (the "Tampever Proceeding"):

WHEREAS, the Parties acknowledge and agree that the matters ser furth become are senantal and complex in that they towards multiple parties and actions before multiple south, including the state, fodered, trial, appollate, and buskrupsey courts, and that to avoid any further expenditure of topal, effort, and steemy and the accordatory attendant to linguistics, the Parties desire to settle and fully emolyse, with projudies, these matters subject to the terms and conditions of this Agreement (the "Similatood"):

WIDGREAN, nontemperaturistly with the restriction and delivery of this Agreement, the Elberg Parties and other related porties are conceing toto a Settlement Agreement, dated as of the financies: Date (the "Elberg Parties" Settlement Agreement"), to fully and finally attitue and renoive certain claims, liabilities, exceen of action, and other matters among the Elberg Parties and other parties thereto which are contingent, in part, upon connecemation of the Settlement between Capital One and the Elberg Parties as contemplated by this Agreement; and

WHEREAS, in view of the Inrepoling, the Parties desire to outer into this Agreement.

NOW THEREFORE, in acquideration of the restual promises and coverants contained berein and for other good and valuable consideration, the receipt and sufficiency of which are bereby acknowledged, the Parties, intending to be logally bound, hereby agree as follows:

 Incorporation of Registrals. The Farties hundry incorporate the Registrals by estimated as if fully set forth in the body of this Agreement and agree that the Registrals see true and according.

Escrow Transfer Date: Settlemost Effective Date: Chapter 11 Plan

- "Excess Deposit Date" means the carliest date upon which all of the following have occurred: (i) this Agreement is fully exceeded by all Parties; (ii) the Elberg Parties: Softlement Agreement is executed by all parties thereto; (iii) the Queens Surrogate's Cost't has emerad an order approving the terms of this Agreement and the Elberg Parties' Serfement Agreement, sufficiliting Lori Sullivan, as Guardian ad Litem for litera, to execute each such agreement on Esmo's behalf, and lifting any stays previously put in place by the Queens Spengate's Court, other than the stay of litigation entered by Quiens Surragate's Court is October 2022 Ohe "Stay Order"), provided however, that notwithstanding the foregoing, all proceedings in Bankruptcy Court and/or any other cases or proceedings beyond the scope of the Stay Order may proceed and shall not be effected or restricted by this provision; and (iv) restrictions placed: on the funds held in accounts of SHEFA (JP Morgan Chase Bank, N.A. account ending x2760). Old Berghlic National Title Insurance Company (IP Morgan Chain Bank, N.A. account ending 44707, 64723, 64774, X47743, Revol One Real Estate LLC (Capital One, N.A. account ending x6355), Royal Real Hinte Management, LLC (Capital Gas, N.A. account ording x5314), encrose by Old Republic National Title Insurance Company (IP Morgan Chair Bank, N.A. accounts ending x4797, x6725, x6774. X4731) (collectively, the "Bestricted Accounter") are removed and, subject to the terms of this Agreement, the Elberg Parties' Settlement Agreement, and the will count Capital One Lions, the Parate of Jacob Elborg shall have access to all flash in the Rostricted. Accounts
- (b) The Etherg Parties agree that, promptly following the surfices thate by which this Agreement and the Etherg Parties' Settlement Agreement are fully executed, the Co-Executors will file all descenters and take all actions renamplely and respectively required to obtain approval.

sof such Agreements by the Queens Surregues's Court and the Bankraptey Court at the Cofineciouss' sole cost and soperor. The Elberg Parties further agree that, Indiawing the erroy of an order approving the terms of this Agreement by Queens Surregues's Court, the Co-Essenties will take all actions seccessary to have the restrictions on the Restricted Accounts lifted at their sole costs and expense.

- "Settlement lifflective Date" means the earliest date upon which all of the 663 following have occurrent: (i) the Eucorea Deposit Date and all actions and obligations of the Ethora-Parties under Section 2 of the Ethera Parties' Settlement Agreement, which must be completed within five (5) business days following the Escrow Deposit Date under the Elberg Parties' Settlement Agreement and this Agreement, are fulfilled or completed; (ii) the date on which all Capital One Biogairements (as defined below) are fulfilled or completed: (iii) entry of an order by the Bankruptov Court approving this Agreement (the "Bankruptov Approval Order"); and (iii) the earlier of (A) one bandred and righty (180) days from entry of the Basknaptcy Approval Orden, or (III) entry of an order by the Bankruptey Court confirming the Chapter 11 Plan (as defined below). which, among other things, shall incorporate the terms of this Agreement, discharge the debts of Debuy Burrowers (including the Loans and Loan Obligations), referse and terminate the Capital One Liens, and be fullowed instactionally by the manufes or sale, as applicable, of Debter Borowers or the Medallices, as the case may be, to Rubes (in consideration of his claim to a contrigent interest in the flatate of Jacob filberg), free and clear of all liene, charges, claims, taxes, free and penulties (tachaling these incomed by or on behalf of the Debtor Borrowers' suspective management companies or their respective employees, contractors, or agents and any tax liability the debt lingiveness for the Debsor Humowest), restrictions, security interests, rights of first infinal, nonteauss, deeds of trust, pipthes, and all other enquathences (collectively, "Litter"). (including for clarky, the Capital One Limit).
- Debtor, Borrowen shall, and Earne and Tumara shall muss the Debtor Borrowers to, seek approval of this Agreement and the lithery Parties' Settlement Agreement by the Bankruptcy Court and confirmation by the Bankruptcy Court of a Chapter 17 Plan which is consistent with the terms of this Agreement and the Elberg Parties' Sandoment Agreement (the "Chapter 11 Plan"). Euroa, Ruber, and Debtor Borrowers agree to use their best efforts and set in ased faith to move list approved of this Agreement and the Effert Parties' Settlement Agreement promptly following execution of these agreements and to obtain conformation of the Chapter 11 Plan. The Parties Sarther encount to any sun-material charges to this Settlement to the extent such changes are necessary to facilitate the confirmation of the Chapter 11 Plan. The Chapter 11 Plan will account for satisfaction of allowable Outstanding Dobtor Borrower Liabilities (as defined below) and to the extent Outstanding Debus Berrover Liabilities are required to be said, they shall be mid by in accordance with torms of the Elbert Parties' Sottlement Agreement. For purposes hereof, "Outstanding Debug Borrower Lighthing" recurs all tures, from charges, costs, penalties and other amounts due and owing by any of the Debter Borrowers, including without finitiation to release any Liens imposed on the Modallions and/or the Debter Bornmers and with respect to claims made to the flankriptey Court, including claims by the New York State-Department of Toxusion and Finance and a personal injury claim, and claims which are otherwise. known or should be known by the Defror Humaways, including claims of the Tarr and Limmoine Commission; provided, however, Ourstanding Debtor Borrover Liabilities do not include the Hankmaney Claims, Loan Obliquitions, or Capital One Liens. The Claptor 11 Plan shall not provide for the liquidation of all or submantially all of the property of the businesses entate of the Debnor-

Homewess, and the Debter Borrowers shall propage in business after consummation of the Chapter 11. Plan. The Chapter 11 Plan shall qualify for discharge particant to Section 1141 of the Bankruptey Code and will not be subject to the exceptions to discharge in that Section (specifically Section 3141(dECS) of the Bankrupter Codes, and the Parties agon that, if the Chapter 11 Plan is confinned, the Leans, say Lean Obligations, and any other claims against Debtor Berrowers will he discharged pursuant to a plan under title 11 of the Banknapky Code within the meaning of Sections 108(a)(1)(A) and (f)(f) of the Internal Reverse Code of 1986, as amounted; provided, however, the Parties represent and warrant that no tax advice has been officed or given by any Party in the course of the negotiations of this Agreement, and the Parties are miying upon the advice of their own tax consultant with regard to one tax consequences that may artist as a result. of the execution of this Agreement. The Chapter 11 Plan shall also provide that the estate of the Deltar Borrowers shall be fully administered upon payment of the Loan and any other Loan. Obligations to Capital One as contemplated by this Agreement and that a motion for a final decreeclosing the Chapter 11 Cause shall be brought by the Debter Borrowers pursuant to the Federal Rules of Bankruptey Procedure, Rule 3022. The Etherg Parties agree to take all actions recessary and execute and deliver all documents, instruments and agreements unded, to obtain every of the final decree of the Baskruptcy Court to close the Chapter 11 Cases. The Parties agree to use best efform and act expeditionals in the performance of this provision.

- Provided that the Chapter 1.1 Plan, confirmation order, and any motions or requests made by the Bebtse Borrowers or their agents in the Chapter 11 Cases (collectively, "Bankrupics Proceedings") do not someon any provisions or suck relief inconstitunt with the communicates and conditions of this Agreement or materially denistric the rights of Capital One. under this Agreement, Capital One and Roben (as applicable) will each do the following: (i) consour to end not object to confirmation of the Chapter 11 Plan for to the taking of any man toobtain confirmation of the Chapter 11 Plan, such as the commidation of the individual Debtor-Borniwers' proceedings) and the discharge of all Learn and the Loan Obligations and say other debt of (ny claims against) the Debtor Berrowers pursuant to the Chapter 17 Plan; and (ii) not object to any other flurkruptcy Proceedings. Simultaneously with execution of this Agreement, (i) Capital One shall execute the Indiot attached as Exhibit 1 to this Agreement, and deliver such hallet to Schoeman Updike & Kaufman LLP, to be held in userow pending solicitation of virus on the Chapter 11 Plan provided for homes, and (ii) Schooman Updike & Kaufman LLP will execute an encrow letter aureument in a firm reasonably satisfactory to Capital One pursuant to which Schoeman Updike & Kaufman LLP will hold Capital One's executed bullot in exerow. Notwithstanding the foregoing, nothing herein shall prevent Capital One from filing a reservotion of rights prior to the Settlement Effective Date in connection with the Harlerigney Promedings-The Parties acknowledge that Capital One may issue an IRS Form 1999-C for any Dorrower whose debt to Capital One has been discharged and is above the applicable reporting threshold as required by applicable law. Upon coeffemation of the Chapter 11 Plan, Buben agrees that his claim will be withdrawn and expringed with prejudice.
- (f) All flors and expension associated with or related to the implementation of this Section 2 shall be the responsibility of the appropriate person(s) consistent with the terms of the Elberg Parties? Settlement Agreement and non Capital One (other than their own legal, from, erests, and expenses consistent with Section 20 of this Agreement). Following the Eastern Deposit Date and subject to the Significant and Consent Order Authorizing Delicors' between Use of Carlo Calluteral in the Chapter 11 Cones at ECF No. 73 (the "Cash Collateral Order"), the Elberg Parties

who have appeared in the Bankruptcy Court proceedings may use the funds suscently in the Dubtus Borrowers' hank accounts (the "Dubtus Borrowers' Accounts, 'Acquired,'), which Elema and Tistrans expresent and agree is not mean than a total of \$69,000 in the Dubtus Borrowers' Accounts, to compensate Brends Whitacre, make required quarterly payments to the U.S. Burkruptcy Trustee, and to pay the fises of, and disburuments incurred by professionals hired proviously to represent and parties services for the Dubtus Borrowers (attentions and accountants) (to the extent them are rufficient funds in the Dubtus Borrowers' Accounts to do sp). Capital One and Buben agree not to contest using the Dubtus Borrowers' Accounts for said expenditures or any applications for and payments of fee awards, or any future applications for fees and dishuncements incurred or awards of fees are dishuncements, whether addressed in the Chapter 11 Plan or otherwise, so long as each use otherwise complies with the terms of the Cash Callatom) Order.

Escrew: Actions of Capital One.

- (a) No later than five (5) business days following the Escrow Deposit Date, the Estate of Jacob Hiberg, will deposit a total of \$8,450,000 (the "Capital One, Increw Assumpt"), for the besuffl of Capital One, in escrew to be bold by the atterneys for Capital One, so escrew agent ("Capital One, Escrew Agent"), in succedance with an encrew agreement to be entered into by Capital One, the Estate of Jacob Hiberg, Rabots, and the Capital One Escrew Agent (the "Escrew Agent (the "Escrew Agent (the "Escrew Agent (the Escrew Agent (the E
- No later than flor (5) business days following Capital One's moript of action from the fiftery Parties of the Eagrew Deposit Date, Capital One shall do (or ensur to be dene) such of the following: provided, however, that any person or cuttly identified homesdar as an excrow agent to hold any documents delivered by Capital One must execute on the fixeration. Date or promptly thereafter as escrew letter agreement in a firm remonably natisfactory to Capital One, and Capital One shall have no obligation to deliver any documents into excrew spiess such eacnow letter agreements have been signed by the applicable parties: (i) deliver to the attorneys fished on Schedule B, as escrew agents, a stipulation of discontinuance or voluntary dismissal, all with prejudice, fire the actions identified thereon to be held by each atterney in excrew in accordance with Section 5(b) of this Agroement and the applicable excow letter agreements; and (ii) deliver to Abrama Fensterman, LLP ("Abrama Fensterman"), as escribe agent, the following to be held in escrow in accordance with Section 5(b) of this Agreement and the applicable excrew letter agreement: (A) DCC-5 semisation statements terrotealing the UCC-1 statements Capital. One had filed (and continued) against Borrowers; and (B) a Sociafication of the Ruber (Thurg. hidgment in the form of Exhibit 2 to this Agreement (the foregoing classes (i) and (ii), erfloctively, the "Capital One Requirements").
- (c) No haur than five (1) business days following the Escrow Deposit Date. Robus shall deliver to the Capital One Harrow Agent a stipulation discontinuing the Freud Action against all defendants, including (i) Capital One (and all Capital One-related criticis), (ii) Treotrom Pepper Hamilton Sundays LLP, and (iii) Skadden, Arps, Shite, Meagher & From LLP, with prejudice.

Perment to Capital One.

- Upon the Settlement Effective Date, and in accordance with the Escrew-Agreement, the Capital One Factor Agent shall release the Capital Our Escore Amount (\$8,450,000) being held be empty to Capital One (the "Settlement Payment"). The Settlement Payment shall be made by efectionia: wire transfer paramet to wiring learnactions to be delivered. by Capital One to the Capital One Escoow Agent. Sobject to Sention 4(b) below, upon the rolumn from enerow of the Capital One Factors Agency to Capital Ose, the Louis and the Louis Obligations shall automatically be deemed satisfied and post in full and, as nach, the Capital One Liens shall be automatically serminated and referred, and the Bankruptey Claims shall be doorned satisfied in full. The Parties acknowledge and agme that the Settlement Payment is being applied first, to the organic principal balance of the Loan Obligations owned to Capital One by the Non-Debtor Borrowers, record, to the unpeid principal balance of the Loan Obligations ownf to Capital One by Jarah Trans. Corp., and ritrof, to the unputd principal balance of the Lean Obligations owed. to Capital One by the Deltor Borewers (other than Jarus Trims, Corp.), Such amount applied purposes to the foregoing semence in clauses first and record shall be tenated by the Parties as paid by the Estato to Robon and paid to Capital One on behalf of the Non-Debtor Borowers and Janah Trans. Corp as set forth therein. Capital One agrees that, upon its receipt of the Settlement Payment. and other concessions made pursuant to this Agreement, the Roben Elberg Judgmont shall be doornood satisfied in Bull.
- ao. In the event that entry of an order cooferning the Chapter 11 Plan. his not socured prior to one hundred eighty (TRO) dava from entry of the Bankruptcy Approval Order, the Loan Obligations of the Debuy florrowers will not have been furgiven or discharged. In such instance, the Parties agree that the Settlement Payment shall be released from morew to Capital One and, upon Capital One's confirmed receipt of the Settlement Payment in full, \$2,000,000 of the Settlemant Payment will be district to have been guid by Ruben for the purchase from Capital One of the sures evidencing the Loop Obligations of the Debrus Borrowers and all rights thereunder and under the school Loan Documents (as defined below) and the Capital One Limm amounted therewith. For the avoidance of doubt, Capital One's confirmed receipt of the fall Settlement Proment in an engress condition procedent to the sale described in the preceding sestence, and such side, if it occurs, shall be made "as is", "where is", "with all faults", and without recentre to Capital One and without representation or warrouty, express or inclied, of new type, kind, or character. Without limiting the potentity of the forming, Ruben acknowledger that Capital One has not made any representations or warranties concerning the validity or enforceshility of the Capital One Liens, the collectability of the Loan Obligations or gry portion themsel, or the value of the Medallions and/or other collatered. Upon its receipt of the full Settlement Payment, Capital One agrees that it shall no longer have any society interest in, lies upon, or claim against any of the Debox Borrowers or their properties.
- (ii) Within tex (10) days of the purchase from Capital One, the northevidencing the Louis Obligations of the Detroy Borrowers and all rights thereusake and under the retained Louis Documents, Rubers, Tamans, and the Ocumber ad Liters, on Infall' of Forms, shall execute Strict Foreslowers Agreements for all Debug Borrowers, the form of which is attached forest as Ealship 3.

Dismissed of Fraud Action: Ilic.

(a) No melier than two (2) husiness days following the Settlement Effective Date, and in accordance with the Encow Agreement, the stipulation discontinuing the Freed Action against all defendants, including (i) Capital Otts (and all Capital Otto-related resisting), (ii) Troutman Popper Hamilton Sundars LLP, and (iii) Skadden, Arps, Slate, Mougher & Piers LLP, with prejudice shall be released from encurs to Capital One or its sourced to be filled with the applicable court, provided, however, in the event that atther (i) Troutman Popper Hamilton Sanders LLP or (ii) Skadden, Arps, Slate, Meagher & Flore LLP are Buben with respect to the Fraud Action, then, notwithstanding anything to the contraty begin or in any other agreement, instrument, or document mounted in correspond between the release are completed by Section 6(b) of this Agreement shall be suff and void and of an linea or effect minely at to the entity that comprehens such sail.

- Date, and in accordance with the applicable excoos letter agreement, (i) each notice of discontinuous or volumery dismonship of the Turnover Proceeding, the Enceptor Action, and the IIII Action, all with perjudice, shall be released from excrew and filed by any of the attempty representing a defendant in each such such solites or proceeding with the appropriate court; (ii) all UCC-3 termination statements and all other documents held by Abrams Ferturerman shall be released from excrew and filed with the appropriate governmental authority to evidence the termination of such Capital One Liems on the Medalitous and Burgowers' other property; provided, however, that, if every of an order confirming the Chapter 11 Plan has not occurrent on or prior to one hundred nighty (180) days from entry of the Bushruptay Approval Onder, then all UCC-3 termination structure and other documents held by Abrams Ferturerman relating to the Capital One Liette on the Medalitous and Borrowers' other property, shall be destroyed by Abrams Ferturerman, and (iii) the flatisfaction of the Bushrupt Judgment shall be released from moreovers and filed with each gradicable Courty Clerk or other appropriate offluor or online in order to supurge such pagement.
- (c) The Parties shall, and shall cause their responsive legal occurred to take any subblicual steps reasonably recessary to ensure that all actions contemplated by this Section, 5 we timely completed.

Rohnses.

Effective on the Settlement Effective Date, and subject to Section 66D hereof, Capital One, on its own behalf and on behalf of its affiliates, successes and assigns. (inflectively, "Capital One Releasing Parties"), reseases and firever discharges such of (i) the History Parties (including Tamara and Ruben, personally and individually in their expection as Co-Enegators of the Entain of Jacob Hiberg), and each of their respective facies, successors, attemptys. accountains, representatives, agents, affiliates, unigns, and say Guardian ad Litors appointed by the Samugate's Court, Queens County (collectively, the "fillions itslessons") and (ii) Reval One Real Fetzte, LLC, Royal Beat Fistate Management LLC, and Royal LIC Real Fature Management, LLC (cultiprivate, "Rayal") and each of their respective heirs, successors, attorneys, accountants, representatives, agents, offiliates, untiges (codectively; the "Reval Releasers"), of and from any and all claims, commercialers, siemands, judgments, obligations, actions or causer of action, we offs, rights, Limi, liabilities, damages, costs, expenses (including reasonable attorneys' first), and compensation (collectively, "Claims"), relating to, in connection with, or arising from (A) the Loads, Loan Obligations, Loan Documents (at defined below), and the Prior Settlement, and (W) the Fraud Action, Fatate Clean, the Hilb Action, the Executor Action, the Bahm Ethory, Indonest. the Babes Elberg Presonal Guarantus, the Bankroptey Claims, the Chapter 11 Cests, and the Turnever Proceeding and any allegations made or proceedings therein, whether in law or in equityon otherwise, whether arising under contract, test, statute, or any often legal theory or basis of any nature wherever, which the Capital One Releasing Parisin or any of them ever had, now has, or may ever have against the Elberg Releasers or the Royal Releasers or any of them based open any act, emission, transaction, agreement, event, or other occommunitating place or existing on or prior to the effective date of this release, whether known or unknown, suspected or occurpedust, claimed or occopied, contingent or non-contingent, mented or not asserted.

- (b) Efficience as of the Sottleman Effective Dute, and subject to Section 60D. bernof, each of (i) the Elberg Parties, on its own behalf and on behalf of its affiliator, successors, and assigns, including, without limitation, any bankruptcy ostate or trustee (the "Elberg Beleasing Parion") and (iii) Royal, refeases and forever discharges Capital One and its successors, pagest companies, subsidiaries, attempts, accountants, representatives, agests, affiliates, and analysis (the "Capital One Releasons") of and from any and all Claims, whether in law or in equity or otherwise; whether arising under contract, tort, etainte, or any other legal theory or basis of any nature. whatsoever, which the Elberg Releasing Parties or Royal or any of them ever had, now has, or may ever have against the Central One Releasons or any of them based agost any act, omission, transaction, agreement, event, or other occurrence taking place or existing on or prior to the effective data of this refuse, whether known or unknown, suspected or unsuspected, claimed or conveyled, continuent or non-continuent, asserted or not asserted, including, but not limited to, Claims relating to any manner to (A) the Louis, Louis Obligations, Louis Documents, and Prior Settlement, and (B) the Fraud Action, Estaty Claim, the JEB Action, the Economic Action, the Bahan Elberg Judgment, the Bankroptey Claims, the Chapter 11 Cases, and the Turnever Presenting and any allegations made or proceedings therein.
- Effective as of the Settlement Effective Date, and subject to the fair sentence of this subsection (s) and figures full bereaf, each of the filberg Referring Parties and Royal. releases and forever discharges Treatman Pupper Hamilton Sanders LLP and Skadden; Arps, Slate, Mougher & Flore LLP, and such of their respective successors, purent companies, subsidiaries. pariners, employees, attorneys, accountants, representatives, agents, affiliates, and assigns (collectively, the "Troutman Scadden Releasees") of and from any Claims relating in any manner to (i) the Leans, Lean Obligations, Lean Documents, and Prior Settlement, and (ii) the Fraud Action, Estate Claim, the JEB Action, the European Action, the Ruben Elborg Judgment, the Bankruptey Claims, the Chapter 11 Cases, and the Torsover Proconding and any allegations made or proceedings therein, which the filtery Releasing Parties and Royal or any of them ever had, now has, or may ever have against the Trournaes/Skadden Reseasons or any of thoss based upon any act, ondusion, transaction; agreement, event, or other occurrence talking place or existing on or prior to the officelye date of this relesse, whether known or unknown, suspected or unsuspected. claimed or concooled, contingent or non-contingent, asserted or not asserted. Notwithstanding the ficespring or anything to the contrary bersin, (A) the release in favor of Treatman Pepper Hamilton Sanders LLF and its successors, parent companies, minufacies, partners, employees, attorneys, eccospetants, representatives, agents, affillates, and assigns contemplated by this Section 5(x) shall can be offactive unless and until Troutman Pepper Hamilton Banders LLF provides a mutual release frontaining a coverant not to sur on any Claims that are the subject of this release in favor of the Elberg Releasure and Reyal Robesson, and (II) the release in favor of Skarkten, Arps. State. Meagher & Flore LLP and its reseasers; person companies, subsidiaries, patrers, employees, ettomerys, secountaria, representatives, agents, offiliates, and ausigns contamplated by this Section. 600 shall not be effective unless and notif Skadden, Arps, State, Meagher & Firm LLP provides a

mutual release (containing a covenant not to may on any Claims that see the subject of this release) in favor of the Effreng Releases and Rayal Releasess.

- (ii) Notwithmending anything to the contrary licreis or in any other agreement, document, or instrument executed in connection herewith, the releases granted under Societies for not immedial to release (i) any lithoug Releases's or Royal Releases's entiting obligations under or relating to any lines, transaction, document, agreement, mortgage loan, account agreement, or credit card agreement with any Capital One Releasing Parties other than the Loans and Loan Documents, or (ii) any person's or entity's rights, obligations or Claims arising under or relating to this Agreement or say document, instrument, or agreement esternal into in connection between or contemplated bearby.
- (ii) Effective as of the Settlement Hillicitive Date, subject in Section 4(b), Capital One and the Hilberg Parties (as applicable) shall have no further liability or obliquitions under the reces, from agreements, accounty agreements, guarantees (including the flubers litherg Personal Guarantees), or any other document, agreement, or instrument vaccuted in connection with the Leurs (collectively, the "Loast Decoments"), and the Leurs Decoments shall automatically be refeased and terminated without any further senior by Capital One.
- Parties, and Bayes absolutely, interesting and irrevocably coverant and agree that they will not our (at law, in equity, in sey regulatory proceeding or otherwise) any Capital One Reissauer on the basis of any Claim missaud, seminal, and discharged pursuant to Section 6(b) of this Agreement. If any lithery Party, Royal, or any of the other lithery Reissauer rectains overseen (a "Binaching Party"), each Broaching Party agrees to pay such semal out-of-pucket duragest as any Capital One Releaser may sentain as a direct senalt of such violation, including documented reasonable attentions. Thus and come incurred by any Capital One Releases as a direct result of such violation, including documented much violation.
- (g) Capital One, on its own bettalf and the other Capital One Retenting Parties, absolutely, unconditionally, and irrevocably coverant and agree that they will not out (at law, in equity, in any regulatory proceeding or otherwise) any Eilberg Releases or Boyal Releases on the besix of any Claim released, remised, and discharged pursuant to Section 6(a) of this Agreement. If Capital One or any of the other Capital One Releasing Parties violates the foregoing coverant, Capital One agrees to pay such actual out-of-pocket damages as any Etherg Reteases or Reyal Releases may metals as a direct result of such violation, including documented manusably attorneys' feet and costs incurred by any Eiberg Releases or Royal Releases as a direct result of much violation.
 - Ibstantionally Christial3.
 - Representations and Warragion.
- (a) Each of the Parties represents and warrants that as of the Execution Date and the Settlement (Elective Date:
- Such Party is the extremt legal and bosoficial owner of all Claims released by such Party howers;

- (ii) Such Party has not assigned, platfood, or contracted to assign or plottge any of the Claims released by such Purry herein except as provided in Section 4(b) of this Agreement.
- (iii) Subject to the approval of the Bankrupscy Court and the Queens Surrogate's Court (as applicable), such Party postenses all requisite authority and power to enter into and county with the serms of this Agreement and the transactions contemplained bomby;
- (iv) Bultjert to the approval of the Bankraptcy Court and the Queens Surregate's Court (as applicable), such Party has obtained all authorizations, consents, and approvale that are required with respect to performance and execution of this Agreement, and
- (v) Subject to the approval of the Bankraptcy Court and the Queen Surrogate's Court (as applicable), no further action, other than as expensely provided in this Agreement, is recensory to make this Agreement a valid and binding obligation of each of the Parties.
- (b) Each individual signing this Agreement on behalf of any Party hereby represents and warrants that such individual has been duly authorized to sign this Agreement on hehalf of the Party for whose such individual is signing.
- (c) The Co-Executors represent sed agree that they will diligently seek approval of this Agreement by the Queezo Surrogote's Court and Bankruptcy Civart in order in bred the Estate of Jupph Elberg and the Debtor Barrowers, respectively, to the territ of this Agreement.
- (d) The Guardian ad Lines for Done Elberg, Leei Sullivan, Esq., has discounted the terror of this Agreement and the Settlement with Energ, and Earl Sullivan, Esq., pursuent in the authority granted to for by the Queens Surregate's Court, agrees to execute this Agreement and consummate the Settlement pursuant to the terror hereof and the other applicable transactions contemplated benefity.
- take or cause to be taken all actions, and do or masse to be done all things renormily impossary, proper or advisable to implement the Sentennest and the other transactions constropheted by this Agreement, including without limitation proceeding in good faith and cooperating with one another by furnishing any additional information, speeds or don, or executing and delivering any additional documents, instruments, releases, assignments, undersakings, approvals, opinions, limitating materians and/or the like (whether or not expressly referenced herein) so may be reasonably requested by any of the Parties or their coursel to consuments or otherwise implement the Settlement and the transactions consumplated by this Agreement. If any legal or structural impediment arises that would prevent, hinder, or doing consumention and implementation of the Settlement arises that would prevent, hinder, or doing consumention and implementation of the Settlement, the Parties agree to take all supe recoverably necessary to address any such impediment so that each of the Parties agree to take all supe recoverably necessary to address any such impediment so that each of the Parties accesses the full hearift of the Settlement to which they are certified humandare.

Confidentiality...

- (a) Except as provided in Section, 3D(b) of this Agracment, the Parties agree (and shall cause each of their respective officers, directors, agents, affiliates, aperts, representatives, being successors and assigns) (i) to maintain in units confidence and not to one at directors any aspect of this Agracment and the Settlement and the discussions, segutiations, terms, status or conditions relating to Settlement and the either transactions continuplated by this Agracment and any and all confidential or retrotive information, whether written or otal or any other format, concerning any of the Farties (collectively, the "Confidential Information") to any purson or entity other than each such Parties (collectively, and (ii) to course and require all such persons or entities to whom such Confidential Information is disclosed to while by the provisions of this Section 10. The Parties shall protect the Confidential Information of the other Parties with the same degree of care with which such Party protects such Party's own information of like importance.
- (b) Nothing contained in Section 10(a) show shall prevent any Party from making such discissaries as necessary (i) to comply with or enforce this Agreement, (ii) to comply with reporting, discissarie, filing or other sequirements improved on such Party by any girventenensial authority. (iii) to obtain approval of this Agreement by the Queens Surregate's Court and flushraptey Court, or (iv) to enterwise comply with applicable low, regulation, sadin, or legal subposess or other legal action or proceeding. For the avoidance of Goobs, Capital One may discloss the status and terror of this Agreement to their remined legal counsel, and Trostman Pepper Hamilton Sanders LLP and Skaddon, Acps, Slate, Meagher & Flore LLP, and/or their respective legal counsel under a duty of confidentiality to Capital One. If any Party or their respective reprotentialists are energefled to disclose any Confidential Information by Judicial or administrative process or by other requirements of applicable law, such Party shall disclose only that portion of such Confidential Information which such Party is advised by its source in writing is legally required to be disclosed, provided that each Party shall use to best efforts to obtain an appropriate presented or refer reasonable assurance that confidential sections will be assurable such information.
- 13. Adoquate Representation. The Perties have each heen represented by legal consent of their choice, and returned and are fully aware of the terms contained in this Agreement, and have voluntarily, without coercion or during of any kind, extend into this Agreement and the documents executed in connection with this Agreement. Neither Capital One, on the one hand, any Elberg Parties, on the other hand, is relying space and has not relied upon any representation, warranty or statement made by any of the other Parties in connection with such Party's execution, delivery, and performance of this Agreement, other thus the representations, warranties, and statements expressly made by such other Party in this Agreement.
- 12. Seconditive If any term or provision of this Agreement, contraling, however, those provisions governing the Settlement Payment and release of any of the Parties, is held by a court of competent jutiadiction to be invelid or unenforceable, in whele or in part, for any maters, such term or provision shall be ineffective to the excess of such invalidity or unenforceablity only, and shall not impair or invalidant the remainder of this Agreement which shall continue in full force and offset. Any term or provision determined by a rount of competent jurisdiction to be over broad in any materiar shall be interpreted or reference to give that term or provision the maximum offset

13:

possinible by applicable have and equity, and the Parties agree to enforcement of the total or provision as so modified.

- 13. No Administra of Liability. This Agreement is a good faith, segestated resolution of dispaced claims. Neither this Agreement not any act performed so document constant pursuant to or in farthermore of this Agreement is adminishe in any court proceedings, except those proceedings, if any, leading to judicial approved of the Settlement and the temperations continued by this Agreement, and any proceeding brought to enforce this Agreement. No Party, by signing this Agreement, admin liability or fault, or admin the validity of any claim reads by any other Party or person with respect to any manue that is the subject of this Agreement.
- 14. <u>Hapstafrie Refiel</u>. Hach of the liftery Parties, on the one hand, and Capital One, on the other hand, anticoveriedges and agrees that irreparable injury to the other Party or Parties would occur in the event inty of the provisions of this Agreement were not performed to accordance with their specific terms or were otherwise breached and that each injury would not be adequately exerpensable by the remedies available at law (including the payment of ensury damages). It is accordingly agreed that in addition to any remedies at law, each Party shall also be emitted to specific enforcement of the terms toward without the necessity of pasting bond or proving actual damages. The other Parties will not take action, directly or indirectly, in appearation of such Party anching such relief on the grounds that any other remedy or relief is available at law or in equity.
- 18. Non-Disputagement. Each of the Parties coverants and agrees that such Party shall not, directly or indirectly through any purson or onlity, in ony way disputage, nall into dissiputation otherwise delants as stander the other Parties or such other Parties' owners, officers, disserters, agents, representatives, affiliates, assessment and assigns in any masses that would damage the basisees or reputation of such other Parties or their responsive overants, officers, disserters, agents, representatives, affiliates, successors and assigns.
- 16. Counterparts. This Agreement may be excurred in consumparts (and by different parties have on different counterparts), each of which shall constitute an original, but all of which when taken together shall countries a single content. Delivery of an ourcuted counterpart of a signature page of this Agreement by telecopy or other electronic means shall be as effective as delivery of a manually executed counterpart of this Agreement.
- 17. <u>Entire Agreement</u>. The Proties acknowledge that this Agreement and the Elberg. Parties' Sattlement Agreement constitute the critic agreement on the matters addressed furein and, except at set forth herein or therein, superiodes all prior agreements or understandings between the Parties, and or written, including without limitation the Prior Settlement.
- 18. Hinding liffort; Failure to be Approved. This Agricument shall be binding upon and insert to the benefit of the Parties and their respective beins, rescourses and arright. This Agrocement shall also (a) survive conversion, disminud, and/or cloning of the Chapter 11 Cases, appointment of a Chapter 11 trustee and/or confirmation of a plan of reorganization, and (b) be binding upon a Chapter 7 trustee or a Chapter 11 trustee that may be appointed in elected in the Chapter 11 Cases or any successfung Chapter 7 case. Notwithstanding the foregoing, in the event this Agreement and the Elberg Parties' Settlement Agreement are not both approved by the Queens Successor's Count and the Bankruptey Centry by July 31, 2024, this Agreement and the Elberg Parties' Settlement Agreement and the used by any Party for any purpose, and each

of the Parties shall return to its status goo onto as of irresolutely prior to the Banatiust Date. For starity, the floregoing recent that any and all transfes paid or released to a Party granuous to this Agreement shall be returned to the original source of payment, the releases set forth is Section 6 of this Agreement shall be void automatically without further set by any Porty, and such of the Parties shall have all of its Claims against the other Parties preserved and shall be entitled to pursue all rights and remedies, whether at law or in equity, available.

- Agreement shall be the submatrive and procedural law of the State of New York without regard to choice of law or conflicts of law principles. Any action based on this Agreement or to enforce any of its terms shall be brought in the Queens Surrogate's Court or the Bankruptey Court, as applicable. Each of the Parties (i) submits to the personal jurisdiction of the Queens Surragate's Court and the Bankruptey Court, and (ii) hereby knowingly, voluntarily, and interprenally waives any right it may have to a trial by jury of any dispute arising tasker or subsing to this Agreement and agrees that any such dispute shall be tried before a judge sixting without a jury.
- 26. Even and Expenses. Except or expressly set forth horeix, such of the Parties will be requestible for their own fees, costs, and expenses, including, without limitation, legal, accounting, and out-of-pocket expenses incurred in consention with segotiating and extering into this Agreement and any other agreements external into an a result of the same.
- Countraction. This Agreement shall be assessed as if the Parties jointly prepared this Agreement, and any uncertainty or ambiguity shall not un that ground be interpreted against any one Party.
- 22. Amendment and Modification. This Agreement cannot be assembled, resulted, or supplemented enally. The Parties may amend, modify, or supplement this Agreement only by a writing signed by each of the Parties.
- 23. Notice. Any worker, request, domand, claim or other communication required or permitted as be delivered, given or otherwise provided between or under any other agreement entered into it commettes herewith must be in writing and (a) delivered in person (in which case, it will be effective upon delivery). (b) statemented by absorbing consult transmission (in which case, it will be effective upon receipt of confirmation of successful transmission to merginn), or (c) and by everreight delivery by Expens Mail. Federal Express or other nationally recognized carrier (in which case, it will be effective upon delivery), in each case to the intended recipient of its last known address reflected in the records of the Parties, and (i) if to Rabert, with a copy (which shall not constitute notice) to Abrarus Fermiumon, LLP, 3 Datons Drive, Soite 300, Lake Success, New York 13042; Atta: Robert Abrarus, Esq.; (ii) if to Tairuna, with a copy (which shall not constitute notice) to Greenfield Strin & Senior, LLP, 609 Third Avenue, New York, New York 10016; Atta: Gary B. Freidman, Esq.; and (iii) if to Capital One, with a copy (which shall not constitute notice) to Read Smith LLP, 399 Lawington Avenue, New York, New York, New York Alina K. Frezione.
- 24. No Third-Party Braseliciaries. This Agreement is intended for the benefit of the Parties and their responsive successors and assigns and, except an expressly set forth in Section 6 (and subject to the express terms and provisions thereof), is not for the benefit of, nor may any

provision beroof be enforced by, any other person or entity. For clarity, nothing in the Agreement shall prevent or impact any Party's right to present against any third party.

- 25. Headings. The section boulings in this Agreement see for recommence only and may not be used in constraing this Agreement.
- Agreement or any of the rights of a Party hereunder shall be effective or binding unless such waiver shall be in writing and signed by the Party claimed to have given or constitute of this Agreement by the extent otherwise agreed in writing, no waiver of any term or condition of this Agreement by any Party shall be construed as a waiver of a subsequent breach or failure of the same term or condition, or waiver of any other term or condition of the Agreement, No failure or delay by any Party in exercising any right or remedy provided by law under or pursuant to this Agreement shall impair such right or remedy or be construed as a waiver of it or proclude its connected at any admirquent time, and no single or partial exercise of any such right or remedy shall provide any other or furture exercise of it or the exercise of any such right or remedy shall provide any other or furture exercise of it or the exercise of any such right or remedy shall provide any other or furture exercise of it or the exercise of any such right or remedy.

[Nignatures Pages Follow]

IN WITNESS WHERDOF, the Parties have executed this Agreement or of the day and year first above welling.

CAPITAL ONE TAXI MEDALLION FINANCE, a trade name of Capital One Equipment Finance Curp.

Name Tallie Hugharing

KLHERG PARTIES

By:	DAHRI TRANS CORP. Dy: Au Pull Van Esses Elberg, by Land Sedirene, so Ousediss ad Litero, promises to attached orders of
Surregate's Coop, Queens County, deted Justice 24, 2023 and September 25, 2023 BOYBER CAB GORP.	Statements's Court, Queens Conarty, dated January 24, 2023 and Suptainable 23, 2023 FIT TAXI CORP. Div. State Southern
Earna Eilberg, by Lori Stallivan, as Guardian ad Liters, psystams to attached urders of Surregate a Court, Queens County, dated January 24, 2023 and Supperatur 25, 2023	Exess Etherg, by Locioballivan, as Outerfied ad Litton, pursuant to attached orders of Surrogate's Court, Queum County, dated January 24, 2023 and September 25, 2023
By:	By:
By: DULLVA O Bone Elling, by Lori Sollivan, as Guardies ad Liters, persuant to ettached orders of Surrogate's Cover, Queens Covery, detail January 24, 2023 and Suprember 25, 2023	By: Della CORP. By: Della CORP. Esena Elberg, by Loriy bullivan, as Ocusdian ad Litres, parsaum to attached orders of Barrogato's Court, Queress Courty, fastal Jensery 24, 2023 and September 25, 2023
N.Y. CANTERN TAXI CORF. By:	N. Y. GENESIS/YAXZ COSCP. By: Dell'VZ - Eama Elburg, by Luri Scitioner, at Genedies ad Liters, pursuant to femaled orders of Surrogate's Court, Queens County, dated January 24, 2023 and Supersbur 25, 2023

N.Y. STANCE TAXI CORP. By: All Cully decided and Elberg, by Left Sullivan, as Guardian and Litera, pursonnt to attached orders of Surregain's Court, Queens Granty, dated January 24, 2023 and September 23, 2023	N.Y. TENT TAXI CORP. There Elberg, by Leri Sellivan, as Guardian at Liters, paramete to attached orders of Burragen's Court, Queens County, dated Jamesty 24, 2023 and September 25, 2023
By: AM Foul LIVE Emma Ellinery, by Lori Stallivers, as Guardians ad Litera, pursuant to attached unitary of Surregato's Court, Queens Courty, dated January 24, 2023 and Suptamber 25, 2023	TAMAR CAB CORP. By:
By: O'ALL FALLIVELY Esten Elberg, by Left Sulliven, as Guerdian ad Lizon, presunt to attached orders of Surrogate's Court, Queens County, doied January 24, 2023 and Suptember 25, 2023	By: ALL FULL ML Essen Elberg, by Lept Sullivan, as Guerdian ad Liters, presument to attached orders of Surrogate's Court, Queres County, dated francing 24, 2023 and September 25, 2023
SHEEA FUNDING LLC By:	BY: Robon Uberg, Authorized Representative TAMARA PEWZNER, individually
DEBILL TRANSIT INC. By: Roben Elberg, Authorized Representative	Teman Posters RUBEN ELBERG, individually
	Ration Ethong SHALOM ELBERG (NAM), individually
	Balon Ubuş (Sen)

N.Y. TINT TAXI CORP.
By: Esnia Elberg, by Lori Sullivan, as Guardian ad Likent, pursuant to attached orders of Sumugate's Court, Queens Courty, dated Jamany 24, 2023 and September 25, 2023
TAMAR CAB CORP.
By: Eatta Elberg, by Lon Sullivan, as Ossedian ail Litem, pursion to attached orders of Surrogate's Court, Queens County, dend January 24, 2021 and September 25, 2021
JEB MANAGEMENT CORP.
By: Earna Elberg, by Lant Sullivan, as Guardian ad Livers, pursuant to attached orders of Surrogate's Court, Queens Guarty, dated himsery 24, 2023 and Suprember 25, 2023
SPINDLE CAB CORP.
By: Hard Representative TAMARA PEWZNER, individually
Tamain Pewanes RUHEN ELBERG, individually Ruhen Elberg SHALOM ELBERG (NAM), individually Shakom Elberg (Sem)

N.Y. STANCE TAXI CORP.	N.Y. TINT TAXLCORP.
By: Exma Fiberg, by Lori Sullivan, so Gwardian ad Litera, pursount to attached orders of Surregets's Court, Queens Courty, dated Jenuary 24, 2023 and September 25, 2023	By:
MOMYASHI TAXI CORP.	TAMAR CAR CORP.
The Escrip Elberg, by Lori Bullivon, or Guardian all Litem, pursuant to attacked orders of Surregare's Court, Queens County, dated January 24, 2025 and September 25, 2023	Hy: Dates Liberg, by Lavi Sullivan, or Guardies ad Libers, pursuant to attached orders of Surrogets's Ceses, Queens County, dentil January 24, 2023 and September 23, 2023
JARUB TRANS, COMP	JEB MANAGEMENT CORP.
Dic. Earns Elburg, by Cort Bulbivan, as Guardian ad Liters, previous to attached orders of Surregate's Court, Queens Cinery, dated forwary 24, 2023 and September 25, 2023 SHIEFA PUNDING LLC	By:
	1bv
fluma Elberg, by Leri Sullivan, as Guardian ad Lliem, pursuant to attached orders of Surregars's Court, Queers Circusty, dated January 24, 2023 and September 25, 2023	TANHURA PEWZNER, Individually
MERILL TRANSIT INC.	Tenans Percond
By:	RUBEN ELBERG, individually
	Bubon filturg
	BRALOM ELBERG (SAM), individually
	Station Elberg (Sam)

Signature Prigs to Dictional Agreement, Elling Parties

N.Y. STANCE TAXL CORP.	N.Y. TENT TAXI CORP.
By:	Hy: Eseria Elberg, by Lori Sullivan, as Guardian ad Litere, participate to estached entires of Serregam's Court, Queens County, dand January 24, 2023 and September 25, 2023
NOMYASH TAXI CORP.	TAMAR CAN CORP.
By: Essta Elberg, by Lori Sulliver, as Guarden ad Litera, partment to etherhed orders of Surregate's Court, Queens County, dated January 24, 2023 and September 25, 2023	By: Eires Ellierg, by Lari Sullivan, as Guardien ad Liters, pursuant to attached unders of Surregate's Casat, Queens Courty, dated January 24, 2023 and September 25, 2023
JARUS TRANS. COMP	JEB MANAGEMENT CORP.
By:	By: Earns Etherg, by Luri Sufficers, as Guerdian and Libers, pursuant to ettached orders of Surregate's Court, Queens County, dated January 24, 2023 and September 25, 2023
SHEFA FUNDING LLC	SPINDLE CAR CORP.
Bly: Esten Elberg, by Losi Selliver, as Guardian ad Lileim, pursonni to attached axions of Secregate's Court, Queens County, dated Jetuary 24, 2023 and September 25, 2023	By: Ration Effort, Authorized Representative TAMARA PEWZNER, individually
MERILL TRANSIT INC.	Tomas Privater
By:	HEBEN ELBERG, todividually
	Ruben Oberg
	SHALOM ELBERG (SAM), individually
	Studens Efforty (Num)

THE ESTATE OF JACOB ELBERG, by and through its re-executions,

Tumora Belyaner and Ruben Etherg

Name Taxors Pentiner

Title: Co-Engager

Br.

Name Butter Ellerg Title: Co-Europa

ACKNOWLEDGED AND AGREED TO SOLELY WITH RESPECT TO SECTIONS I and 8:

ROYAL ONE REAL ESTATE, LLC

Name: Tansara Fewarier

Title: Co-Manager

BOYAL LIC BEAL ESTATE MANAGEMENT, LLC

Nathe Turara Profesion

Title Co-Manager

ROYAL REAL ESTATE MANAGESBENT, LLC *

Nanc: Tamara Physican

Time Ce-Manager

MISCHARY, REBERRY, individually

Subal filters

ESMA ELBERG, individually

Euroa Elberg, by Lori Bullivan, as Cisenthan ad Liven, paressent to attorbed coders of Surregate's Cenet, Quoena Covery, dated January 24, 2023 and September 23, 2023 and the order of the Surregate's Crieft, Queens Covery, dated January 22, 2024.

The Court has reviewed and approves the terms of this Sopulation of Settlement and authorizes the Guardier ad Litters to describe same premium to SCPA 2108:

Hosecubic Poter J. Nally, Surrogate

MICHAEL ELBERG, individually THE ENTATE OF JACOB ELBERG. by and through its co-executors, Tomura Pewaner and Ruben Elberg. Michael Etherg By Nome: Tamara Peweran Title: Co-Executive ESMA ELHERG, individually Section. Name: Buley Chorg Exma Elberg, by Lori Bullivan, an Guardian -Title: Co-Executor ad Liters, pursuant to attached orders of Surrough 's Coast, Overero Courte, dated January 24, 2023 and Suprember 25, 2023 and the order of the Surroger's Court, Owner, ACKNOWLEDGED AND AGREED TO SOLELY WITH RESPECT TO County, shoul January 22, 2024. SECTIONS Lend 6 ROYAL ONE REAL ESTATE, LLC The Court has reviewed and approves the Bet terms of this Stignulation of Settlement and Name: Tanura Pewoner authorizes the Goardise ad Litera to execute Title Co-Manager same pluriquant to SCPA 2106: ROYAL LIC REAL ENTATE MANAGEMENT, LLC Honorable Peter J. Kelly, Suryngate Bw. Name: Turnes Prognet Title: Co-Managar

ROVAL REAL ESTATE MANAGEMENT, LLC

Name Tamara Pewaner Title: Co-Manager

and the control of th	
THE ESTATE OF JACOB ELHERG, by and through its co-executors, Taxarra Powener and Roben Elberg	MICHAEL ELBERG, individually
By:	Michael Elliong ENMARLEERG, Individually
By:	Furna Elborg, by Lori Stallivan, as Quardian ad Liters, procusent to attached orders of Burragate's Court, Queens County, detect
ACKNOWLEDGED AND AGREED TO SOLELY WITH RESPECT TO SECTIONS Land &	January 24, 2023 and September 25, 2023 and the natur of the Surrogate's Court, Queens County, dated January 22, 2024.
ROYAL ONE REAL ESTATE, LLC	
By: Name: Tweara Pewsuar Title: Co-Manager	The Court has projewed and approves the terms of this Stipulation of Settlessest and authorizes the Overtime ad Liters to execute metro pursuant to SCPA 2106:
ROYAL LIC BEAL ESTATE MANAGEMENT, LLC	
By: Name: Tarura Pewmur Tida: Co-Managar	Honorable Puter J. Kally, Surregute
HOYAL REAL ESTATE MANAGEMENT, LLC	
By: Name: Tamara Prisepur Title: Co-Manager	
U.S. A. Salar and Control of Cont	

Scholule A
Description of Leans and Medailless Cullsteral

Horriwer	Original Principal Amount	Medallien Nen.
HICACITA CAD CORP.	\$1,210,000	21.35, 21.36
BRACHA CAB CORP.	\$250,000	21.33, 21.36
DABRI TRANS CORP.	\$1,210,000	5110, 5111
DABRI TRANS CORP.	\$250,000	2010, 2011
DOVING CAR CORP.	\$1,210,000	2371, 2372
DOVBER CAB CORP.	\$250,000	2371, 3372
PIT TAXI CORP.	\$1,525,000	3M78, 3M79, 3M80
JACKHEL CAB CORP.	\$1,210,000	85642, 85663
JACKHUL CAB CORP.	\$250,000	85642, 85643
LECHAIM CAB CORP.	\$1,210,000	1866, 1887
MERAN CAN CORP	\$1,210,000	7122, 7125
N. Y. INDOXGY TAXI CORP.	\$1,210,000	2739, 2743
N.Y. CANTIEN TAXI CORP.	\$1,210,000	2737, 2738
N.Y. GENESIS TAXI CORP	\$1,210,000	2744,2745
N.Y. STANCE TAXLCORP.	\$1,210,000	3915, 3916
NY TINT TAXI CORP.	\$1,210,000	8M46, 8M47
SOMYASH TAXI CORP.	\$1,210,000	4318, 4319
TAMAR CAB CORP.	\$1,210,000	HISO, HETW
JAHUH TRANS CORP.	\$1,210,000.00	9267, 9368
MERILL TRANSIT INC.	\$1,190,000.00	5P63, 5P66
SPINDLE CAB CORP.	\$1,190,000.00	1844, 1847

Schedule III

Darrow Agent	Defendants	Litigations
Abrama Ferestoman, LLP	Rabon Hiberg (representative and personal rapacities) JHB Management Corp.	Capital One Taxt Medallion Finance v. JER Management Carp. et al., Index No. 608014/2015 (N.Y. Sup., Suffisik Cety.)
		Capital One Tixt Modellion Fluores + Tomara Percent et al., Index No. 611751/2015 (N.Y. Bug., Suffirlk City.)
		Cignical One Tool Medallism Finance v. Tamara Pewpser of al., Index No. 613186/2023 (N.Y. Sup., Names Coty.)
Schoeman Updike & Kaufman LLP	Tamara Pewznur (representative and personal espacities)	Coprod Over Timi Medallion Finance v. Tomana Perspeer et al., Indea No. 811751/2015 (N.Y. Sup., Suffiils Caty.)
		Capital One Taxi MidaBhor Finance v. Tamoru Pressur- ot of, Indox No. 613184/2022 (N.Y. Sup., Nanua Caty.)

Schodule C

Debtar Berrowar	Date of Filing & Docket Number
BRACHA CAB CORP.	12/08/17; Bankr, E.D.N.Y, Case No. 17-40613
DABRITRANS CORP.	12/08/17: Bankr. F.D.N.Y. Care No. 17-46618
DOVBER CAR CORP.	12/08/17; Bushr, E.D.N.Y. Case No. 17-44614
FIT TAXL CORP.	12/98/17; Bashr, F.D.S.Y. Com No. 17-46620
MERAR CAR CORP	12/98/17; Bashr, E.D.N.Y. Case No. 17-8619
N.Y. GENESIS TAXI CORP	12/98/17; Beakr, E.D.N.V. Case No. 17-46617
TAMAR CAR CORE.	12/98/17; Bankr, E.D.N.Y. Case No. 17-46610
JACKHEL CAH CORP.	12/11/17; Bankr. E.D.N.Y. Case No. 17-46646
JARUB TRANS, CORP.	12/11/17; Bankr, E.D.N.Y. Cass No. 17-46629
LECHAIM CARCORP.	12/11/17; Bankr, F.D.N.Y. Cant No. 17-46647
S. Y. ENERGY TAXI CORP.	12/11/17; Bankr, E.D.N.Y, Case No. 17-46645
N.Y. CANTEEN TAXI CORP.	12/11/17; Bankr, F.D.N.Y. Case No. 17-46644
N.Y. STANCE TAXLCORP.	12/11/17; Bankr, E.D.N.Y. Cass No. 17-46642
NY TINT TAXE CORP	12/11/17; Bankr, F.D.N.Y. Core No. 17-41641.
50MYASH TAXLING	12/11/17; Banky, E.D.N.Y, Case No. 17-46603

Exhibit 1

Dagota

(See Attached)

UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF NEW YORK	
In re:	
Bracha Cab Corp, et al.,	Chapter 11
Debtors.	Case No.: 17-46613-nhl Jointly Administered
CLASS[]BALLO ACCEPTING or REJECTING PLAN	
Bracha Cab Corp., Dovber Cab Corp., Dabri Trans Co Jarub Trans Corp., Somyash Taxi Corp., NY Canteen Cab Corp., NY Genesis Taxi Corp., NY Tint Taxi Cor Taxi Corp., Jackhel Cab Corp. ("Debtors") filed a plar Plan) for the Debtors in these cases. The Court has app to the Plan. The Disclosure Statement provides inform your ballot. If you do not have a Disclosure Statement Updike & Kaufman, LLP.	Taxi Corp., Lechaim Cab Corp., Tamar rp., NY Stance Taxi Corp., NY Energy of reorganization dated 2024 (the proved a disclosure statement with respect lation to assist you in deciding how to vote
Court approval of the Disclosure Statement does not in	ndicate approval of the Plan by the Court.
You should review the Disclosure Statement and the seek legal advice concerning the Plan and your class. Your claim has been placed in class—under the Plan in more than one class, you will receive a ballot for	sification and treatment under the Plan. an. If you hold claims or equity interests
If your ballot is not received by Schoeman Updike of New York, New York 10176 on or before a vote will not count as either an acceptance or reject	and such deadline is not extended, your
If the Plan is confirmed by the Bankruptcy Court, you vote.	it will be binding on you whether or not
Acceptance or Rejection of the Plan	

The undersigned, the holder of a Class claim against the Debtors in the unpaid amount of Dollars \$_____

[In each case, the following language sho	ould be included:]
Check one box only	
☐ Accepts the Plan	
☐ Rejects the Plan	
Dated:	
Print or type name:	
Signature:	_ Title (if corporation or partnership)
Address:	_
	- -

Return this ballot to:

Schoeman Updike & Kaufman, LLP 551 Fifth Avenue New York, New York 10176

Exhibit 2

Satisfaction of Ruben Effery Judgment

(See Attached)

SUPREME COURT, STATE OF NEW YORK COUNTY OF SUFFOLK

Capital One Taxi Medallion Finance	X
apitai One Taxi Medamon Finance	SATISFACTION OF JUDGMENT Plaintiff(s)
-against- EB Management Corp. and Ruben El	Index No. 608014/201
ED Management Corp. and Ruben En	Defendant(s)
WHEREAS, a judgment was on the	\mathbf{e}^{22} day of November , 2016 , recovered by the
Plaintiff, Capital One Taxi Medallion Finance	against the Defendant, Ruben Elberg
n the above entitled action for the sum of \$4	1,399,541.72 Dollars, which judgment was, on the 22,
ay of December , 2016 , duly docketed	and entered in the office of the Clerk of the County of
uffolk, and whereas said judgment has been	
THEREFORE, full satisfaction of said judgi	ment is hereby acknowledged, and the Clerk of the
County of Suffolk is hereby authorized and	directed to make an entry of full satisfaction of the
docket of said judgment.	
Pated:	
	(The name signed must be printed beneath)
TATE OF NEW YORK))ss.:	
OUNTY OF	
On theday of	in the yearbefore me, the undersigned,
personally appeared	ne on the basis of satisfactory evidence to be the

Kehibit 3

Form of Strict Foreclosury Agreement

(Set Attached)

EXHIBIT 3

FORM OF STRICT FORECLOSURE AGREEMENT

THIS STRICT FORECLOSURE AGREEMENT, dated as of, 2024 (thi
"Agreement"), by and among [BORROWER'S NAME] (the "Borrower"), a New York
corporation having an address of, the Estate of Jacob Elberg (the
"Guarantor") and, together with the Borrower, the "Obligors"), and Ruben Elberg (the "Lender
and, together with the Obligors, the "Parties"), having his address at

Recitals:

- A. The Lender is the holder of those certain loans to the Borrower identified on <u>Schedule 1</u> attached hereto (the "**Loans**"). Each of the Loans was absolutely and unconditionally guaranteed by the Guarantor. All documents, instruments and agreements executed and delivered in connection with the Loans, each as amended, restated, supplemented or otherwise modified from time to time, are collectively referred to in this Agreement as the "**Loan Documents**". Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Loan Documents.
- B. Repayment of the Loans is secured by, among other things, valid, perfected, first-priority liens in the New York City Taxi Medallions (the "**Medallions**") identified on <u>Schedule 1</u> attached hereto.
- C. The Parties entered into that certain Settlement Agreement, dated as of January 22, 2024 (the "**Settlement Agreement**"), pursuant to which, among other things, Lender agreed to accept the Obligors' turnover, surrender, or assign of the Medallions to Lender and a cash payment in satisfaction of the Loans as contemplated by the Settlement Agreement.
- D. To permit Lender the option of proceeding to take title to the Medallions through a strict foreclosure of liens, the Parties have agreed to enter into this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the Parties intending to be legally bound, agree as follows:

- 1. <u>Incorporation of Recitals</u>. The Parties hereby acknowledge and agree that the foregoing recitals are true and correct and are incorporated herein by reference.
- 2. <u>Agreement to Provide Information</u>. Obligors agree to provide Lender with any documents and information in their possession, custody or control, or reasonably obtained by them relating to the Medallions, or relating to any liens, claims, interests, or encumbrances relating to the Medallions that is required by Lender.
- 3. <u>Strict Foreclosure</u>. Obligors agree that Lender may, without further notice to Obligors, proceed under Section 9-620 of the New York Uniform Commercial Code (the "**NY UCC**") by accepting all or some of the Medallions in partial satisfaction of the amounts due under the Loans ("**Strict Foreclosure**"). This Agreement is intended to establish a procedure by which Lender may take title to the Medallions and is not intended to modify the Settlement Agreement. Obligors acknowledge and agree that by executing this Agreement, proper notice shall be deemed to have

been given both under the Loan Documents and pursuant to Section 9-620 of the NY UCC. The Obligors further acknowledge and agree that Lender's willingness to acquire the Medallions through Strict Foreclosure is done solely as an accommodation to the Borrower and is not an agreement by the Lender as to the value of a Medallion. Borrower agrees that it will not, directly or indirectly, seek any form of relief from any court seeking to stay, impede, or otherwise delay the Lender's exercise of Strict Foreclosure.

- 4. <u>Borrower's Acceptance of Lender's Proposal</u>. This agreement constitutes Borrower's acceptance of Lender's proposal to accept the Medallions in partial satisfaction of the Loans secured thereby in an authenticated record after default as provided in Section 9-620(c)(l) of the NY UCC.
- 5. <u>Guarantor's Acceptance of Lender's Proposal</u>. This Agreement constitutes the Guarantor's acceptance of Lender's proposal, described in Section 9-621(b) of the NY UCC, to accept the Medallions in partial satisfaction of the Loans secured thereby.
- 6. <u>Transfer to Third Parties</u>. The Obligors acknowledge and agree that the Lender may transfer its rights to acquire any Medallion hereunder to such third party as designated by the Lender, in its sole discretion and that Lender may assign this Agreement and any Bill of Sale (as defined below) or other document or instrument executed in connection with this Agreement in whole or in part to one or more assignees, designees, or transferees.
- 7. Effective Date, Bill of Sale. Concurrently with the execution of this Agreement, the Borrower shall execute undated General Assignments and Bills of Sale in a form agreed to by the Parties (each, a "Bill of Sale"). The Bill of Sale shall not be effective until a date is inserted by the Lender or its designee. The Bill of Sale will be dated and the transfer of all right, title, and interest in the Medallions to Lender or its designee under this proposal shall be deemed consummated as of that date (the "Effective Date"). The Borrower expressly authorizes Lender or its designee to fill in the Effective Date and name of the applicable Borrower.
- 8. <u>Notices of Strict Foreclosure to Third Parties</u>. Obligors acknowledge that Lender may send notices to interested parties as required under Section 9-621 of the NY UCC.
- 9. <u>Inconsistent Agreements</u>. In the event any provision of this Agreement conflicts with any provision of the Settlement Agreement, the provisions of the Settlement Agreement shall govern and control.
- 10. <u>Counterparts</u>. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature Page Immediately Follows]

BORROWER:	LENDER:
(Individual Medallion Company)	Ruben Elberg
By:	
Esma Elberg, by Lori Sullivan, Guardian ad Litem, pursuant to attached orders of Surrogate's Court, Queens County, dated January 24, 2023 and September 25, 2023	Ruben Elberg
GUARANTOR:	
Estate of Jacob Elberg	
By:	
Tamara Pewzner,	
Co-Executor of the Estate of	

Jacob Elberg

Schedule F

Stipulations and Notices of Discontinuance and Voluntary Dismissal and Satisfaction of Judgment

- 1. Stipulation of Discontinuance and Satisfaction of Judgment for the declaratory judgment action in the Supreme Court of the State of New York, New York County, Index No. 653373/2016.
- 2. Stipulation of Discontinuance and Satisfaction of Judgment for the money judgment action in the Supreme Court of the State of New York, New York County, Index No. 657021/2022.
- 3. Stipulation of Discontinuance of the appeals related to the money judgment action (listed in No. 2 above) in the Appellate Division, First Department, Case Numbers 2022-04570, 2022-03814 and 2022-03815.
- 4. Stipulation of Discontinuance and Satisfaction of Judgment of the guaranty recovery action in the Supreme Court of the State of New York, Suffolk County, Index No. 608014/2015.
- 5. Consent to Change Counsel and Stipulation of Discontinuance of executor action in the Supreme Court of the State of New York, Suffolk County, Index No. 611751/2015.
- 6. Notice of Discontinuance of fraud action in the Supreme Court of the State of New York, New York County, Index No. 653076/2022.
- 7. Notice of Discontinuance of special proceeding in the Supreme Court of the State of New York, Nassau County, Index No. 613186/2022.
- 8. Notice of Discontinuance of title action in the in the Supreme Court of the State of New York, New York County, Index No. 159450/2022.
- 9. Stipulations of Discontinuance of estate actions in the Surrogate's Court of the State of New York, Queens County, under File Number File 2022-211, sub matters I.

Exhibit 1

Concert to Assendment Regarding the Irrevocable Trust

THE ESMA ELBERG IRREVOCABLE TRUST DATED JANUARY 23, 2017

Amendment of Trust Pursuant to EPTL § 7-1.9

WHEREAS, by agreement made and delivered on January 23, 2017 (the "Agreement") between Esma Elberg, as Grantor, and Tamar Pewzner, as Trustee, the Grantor created the The Esma Elberg Irrevocable Trust Dated January 23, 2017 (the "Trust") for the purposes set forth in the Agreement; and

WHEREAS, the Trust is governed by the laws of the State of New York; and

WHEREAS, Section 7-1.9 of the New York Estates, Powers and Trusts Law (the "EPTL") authorizes the creator of a trust to amend the whole or any part thereof by an acknowledged written instrument upon the acknowledged written consent of all persons beneficially interested in such trust; and

WHEREAS, the Grantor wishes to amend the Trust in certain respects; and

WHEREAS, the persons who are beneficially interested in the Trust are: (i) three of the Grantor's children, Michael Elberg, Tamar Pewzner and Sam Elberg (also known as Sholom Elberg), and (ii) one or more charitable organizations of Chabad Lubavitch selected by the Trustee in the Trustee's discretion; and

WHEREAS, all of said children of the Grantor are of full age and competent (collectively, the "Individual Beneficiaries"); and

WHEREAS, the Trustee has selected Merkos Linyonei Chinuch Inc., Brooklyn, New York (the "Charitable Beneficiary"), as the Chabad Lubavitch charitable organization to have a beneficial interest in the Trust.

NOW, THEREFORE, in accordance with EPTL Section 7-1.9 and effective upon the acknowledged written consent of all of the Individual Beneficiaries and the Charitable Beneficiary, the Grantor hereby amends the Agreement as follows (the "Trust Amendment"):

FIRST: Article IV of the Agreement is hereby deleted in its entirety and a new Article IV is substituted in its place to read as follows:

"ARTICLE IV

Upon the death of the Grantor, the Trust shall terminate and the Trust principal and any undistributed income (less amounts to be paid to the Grantor's estate, executor, duly appointed fiduciaries or the tax authorities on account of any estate taxes attributable to the Trust Corpus) shall be distributed to the Grantor's son-in-law, FAIVISH PEWZNER, or if she shall fail to survive the Grantor, then to his issue who shall survive the Grantor, per stirpes."

SECOND: Except as hereinabove set forth, all of the provisions, terms and conditions set forth in the Agreement are hereby ratified and confirmed and shall continue in full force and effect.

[signature page follows]

IN WITNESS WHEREOF, each of the Grantor, the Trustee, and the Individual Beneficiaries and the Charitable Beneficiary of the Trust has hereunto set her, his or its hand and seal on the date set forth below.

Date:	, 2023	EGNA EL DEDG. G
		ESMA ELBERG, Grantor
Date:	, 2023	MICHAEL ELBERG, Individual Beneficiary
Date:	, 2023	TAMAR PEWZNER, Trustee and Individual Beneficiary
Date:	, 2023	SAM ELBERG, Individual Beneficiary
Date:	, 2023	MERKOS LINYONEI CHINUCH INC., Charitable Beneficiary
		By:Name: Rabbi Mendel Kotlarsky Title:

STATE OF NEW YORK)	
COUNTY OF)	SS.:
ESMA ELBERG, personally know satisfactory evidence to be the indinstrument and acknowledged to n	vn t ivid ne t stru	me, the undersigned, personally appeared to me or proved to me on the basis of dual whose name is subscribed to the within that she executed the same in her capacity, ament, the individual, or the person on behalf ed the instrument.
		(signature and office of person taking acknowledgment)
STATE OF NEW YORK)	SS.:
COUNTY OF)	55
MICHAEL ELBERG, personally leads satisfactory evidence to be the indinstrument and acknowledged to n	kno ivid ne t nen	me, the undersigned, personally appeared own to me or proved to me on the basis of dual whose name is subscribed to the within hat he executed the same in his capacity, and t, the individual, or the person on behalf of the instrument.
		(signature and office of person taking acknowledgment)

STATE OF NEW YORK)
COUNTY OF	; ss.:)
TAMAR PEWZNER, personally satisfactory evidence to be the incinstrument and acknowledged to	fore me, the undersigned, personally appeared known to me or proved to me on the basis of dividual whose name is subscribed to the within me that she executed the same in her capacity, estrument, the individual, or the person on behalf ecuted the instrument.
	(signature and office of person taking acknowledgment)
STATE OF NEW YORK) : ss.:
COUNTY OF)
SAM ELBERG (also known as S proved to me on the basis of satis is subscribed to the within instrumthe same in his capacity, and that	fore me, the undersigned, personally appeared HOLOM ELBERG), personally known to me or factory evidence to be the individual whose name ment and acknowledged to me that he executed by his signature on the instrument, the If of which the individual acted, executed the
	(signature and office of person taking acknowledgment)

STATE OF NEW YORK)	
	:	SS.:
COUNTY OF)	

On , 2023, before me, the undersigned, personally appeared MENDEL KOTLARSKY, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

(signature and office of person taking acknowledgment